MR. A. HOOGEWERF (*Nominated*): Will the Government be pleased to refer to Section 6 also of the Regulation?

MR. S. PARAMESVARA AIYAR (*Secretary to Government*): I have referred to that Section.

MR. A. HOOGEWERF (*Nominated*): Under what Section of the Regulation was the article realised?

PRESIDENT: That does not arise out of the question.

LEGISLATION.

***The Travancore Village Panchayats Bill.*—(contd).**

PRESIDENT: We will now proceed with the consideration of the Village Panchayat Bill.

Clause 16.

The following amendments were not moved :—

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Add as sub-clause (8) "the promotion and encouragement of cottage industries."

Retain the Proviso to the clause in the original Bill omitting the words "or confer any power."

PRESIDENT: Clause 16, as now amended by the Council will run as follows :—

"Subject to such rules as may be prescribed in this behalf, it shall be the duty of the Panchayat, within the limits of the fund at its disposal, to make provision for carrying out the requirements of the village in respect of the following matters :—

(1) the cleaning of streets ;

(2) the construction, maintenance and improvement of wells and tanks for the supply of drinking water to the public.

(3) the opening of burial and burning grounds and the maintenance of grounds so opened ;

(4) the control and management of cattle pounds ; and

(5) sanitation."

The clause as amended was added to the Bill.

Clause 17.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I beg to move that "Vaccination" and "Registration of births and deaths" be included as sub-clauses (13) and (14) in Clause 17 and that the present sub-clause (13) be renumbered as (15).

MR. S. PARAMESVARA AIYAR (*Secretary to Government*): I second the amendment.

PRESIDENT: I take it that the House accepts the amendment.

The amendment was carried.

The clause as amended was added to the Bill.

Clause 18.

PRESIDENT: The question is that Clause 18 do form part of the Bill. No amendments have been tabled in respect of this Clause.

The Clause was added to the Bill.

LIBRARY ARCHIVES Kerala Legislative Assembly

[President.]

Clause 19.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I beg to move that in Clause 19, lines 4 and 5, the words "common to the village" be substituted for the words "within the village". Clause 19, as it stands, legalises the transfer of control or management of any institution by any person to a Village Panchayat. I doubt the wisdom of such a provision. For example, there may be a Hindu temple within a village. There may also be a trustee who has the control of the particular temple, and if he proposes to transfer the religious institution to the Village Panchayat, there is nothing in Clause 19 which prevents such transfer to and management by the Village Panchayat. The duties obligatory and discretionary mentioned before, as falling to the share of the Village Panchayat, are duties common to the village and enure to the benefit of the entire village. So, if the affairs of private individuals may be transferred under the authority of the law to a Village Panchayat, the multiplicity of duties which a Village Panchayat will be called upon to undertake or authorise to undertake would be very much and tell very seriously upon the essential work which this Regulation contemplates them to get through. Further, it will lead to all manner of objections and unpleasantness also. For, in the case of religious institutions, such as a mosque or a church, which enures to the benefit of only a section of the village, this provision will certainly lead to unpleasant consequences. So, in their interest and keeping in view the whole design of the Regulation, I thought that what might be legally entrusted to the management of the Village Panchayat should be the management or control of such institutions as would be common to the villagers as a whole. Hence my proposal to make a change in the wording of the Section. The expression "within the Village" simply indicates the *situs* or the situation of the institution to be controlled. I am concerned more with the nature of the institution to be taken over than the situation of it. Therefore, to bring out the intention of the framers of this Regulation more clearly, I would submit that only such institutions as may be common to the village may be transferred, though such institutions may be under the control of any Government authority or of any particular person. According to the Clause as it stands, any person may transfer any institution to the Village Panchayat and then the Village Panchayat may be called upon to undertake the management of it. In all these cases, I can understand the force and reasonableness of the provision if the institution proposed to be transferred happens to be common to the entire village; but when it dwindles to or when it comes to the stage of authorising or transferring or assigning an institution which is primarily intended to enure to the benefit of one section alone, it would be unreasonable to ask the Village Panchayat to undertake or compell it to undertake it.

PRESIDENT: Some institutions are necessarily like that. Take the question of wells; they may not be common to the entire village

LIBRARY ARCHIVES Kerala Legislative Assembly

which spreads over a number of miles. If a well is not common to the entire village, would you exclude it from the Village Panchayat altogether ?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Wells should be common to the Village if the Panchayat is asked to manage them. That is my idea. For sectional use or for the use of a section in a Village, if a Village Panchayat is asked to supervise a particular well or to regulate its use, it is certainly bad.

MR. J. JOHN NIDIRY (*Changanachery cum Minachil*) : I second the amendment.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : I oppose the amendment. It is impossible in the nature of things that anything which will be handed over to a Village Panchayat should always be common to the whole of the village. If anybody sinks a well and is prepared to hand it over to the management of the Village Panchayat, even though it may not be common to the whole of the village or confined to a section of the village, I do not see what objection there is in the Village Panchayat taking it up. So also, in the case of charitable institutions, it may be a charity for the whole or a section of the Village. The Section does not make it obligatory upon the Village Panchayat to take up anything that is offered to it. If a person who offers it is willing, to offer it and if the Panchayat is willing to take it up then, in order that such an arrangement may be legally recognised, Section 19 is proposed to be enacted. It is not obligatory upon the Village Panchayat to take up anything that is handed over to it. Nor is it obligatory upon anybody to offer it. Any understanding come to between the parties should be recognised by the Regulation. In the case of Village Panchayats and other statutory bodies anything that is not expressly authorised may be said to be prohibited. It is with that view that the Clause is put in. In the case of a trustee, to whoom my friend alluded, I do not know whether the trustee of a religious institition will be justified or empowered to delegate the trust to somebody else.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : May I know whether many trustees have not delegated the authority of controlling institutions to the Government of Travancore ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : I am not aware.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : With respect to the Paschima Devaswom, may I know who has assigned it to the Government ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : Nobody has assigned it. The Government of Travancore are exercising their powers of management, it may be, by right of adverse possession. I am not aware of any assignment by any specific trustee.

LIBRARY ARCHIVES Kerala Legislative Assembly

[President.]

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Have not the Government taken up the deed of assignment from one Mattakattu Panikkar in respect of the Erumeli Devaswom?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am not aware of it.

PRESIDENT: They are matters of detail and do not directly bear upon the question before the House.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Generally there is the law of trust to govern such cases; but there need be no fear in regard to the matter now before us. According to Mr. P. K. Narayana Pillai, a Municipality or a Village Panchayat cannot take up any institution unless it be common to the whole of the Municipality or the whole village. I do not know whether any such thing could possibly exist in any Municipality or any Panchayat. I therefore beg to oppose the amendment.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I have nothing more to add to what I have already said. My own idea is that the Village Panchayat should not be converted into a medium for the transaction of private business.

PRESIDENT: It is not private business.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): It would be a private business if, for example, I myself started a charitable institution and asked the Panchayat to take it up. It may be a feeding house for high class Hindus. Suppose the majority of the Village Panchayat come to the conclusion that it should be taken up. The minority will always feel aggrieved.

PRESIDENT: It is not a private concern. It is a *quasi*—public concern.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): It is only in view of that difficulty that I press the amendment.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I have only to remind my friend that, under the General Clauses Regulation, "a section of the public" means the public. 'Public' will include any class of the public or community.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know whether he would adhere to the definition right through the discussion that may take place to-morrow also?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The member will find I will.

PRESIDENT: I will put the amendment to the vote of the House.

The amendment was put to the vote and declared lost.

PRESIDENT: The question is that Clause 19 do form part of the Bill.

The motion was carried and the Clause was added to the Bill.

LIBRARY ARCHIVES Kerala Legislative Assembly

Clauses 20 to 22.

PRESIDENT: The question is that Clauses 20, 21 and 22 do form part of the Bill. There are no amendments proposed to these Clauses.

The Clauses were added to the Bill.

Clause 23.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I move that, in line 3 of Clause 23, the words 'other purpose' may be substituted for 'of the purposes'. The clause runs thus:—

Any member, officer or servant of a Panchayat may enter into or upon any building or land with or without assistants or workmen, in order to make any inspection or execute any work or for any of the purposes of this Regulation.

It will be better reading if the words 'or any other purpose of this Regulation' be put in for 'any of the purposes of this Regulation.' The purposes are making inspection, executing any works which have been already mentioned.

MR. PAUL V. DANIEL (*Agastisvaram*): I second the amendment.

MR. V. SUBBA AIYAR (*Additional Head Sikar Vakil*): The difficulty is that 'inspection' is not mentioned anywhere else.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Inspection can be for the purpose of investigation.

PRESIDENT: Inspection may be made for the purpose of carrying out certain duties.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If you say 'for any other purpose' it means investigation also.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Under this Regulation it is certainly one of the purposes.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If inspection is not for a specific purpose, I do not think we should put in 'other purposes.' Hence I do not think that there is any necessity for this amendment.

PRESIDENT: What is the wording in other Regulations?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): In other Regulations, the wording is exactly the same.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): In what other Regulation?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I consulted the Bombay Municipal Act and the Madras Municipal Act.

PRESIDENT: I think our Municipal Regulation also contains similar powers of entry, etc.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The Madras Village Panchayat Act lays down that—

"Any member, officer, or servant of a Panchayat may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or execute any work for the purpose of..... ....."

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): That is all right.

PRESIDENT: Do you accept the amendment or suggest any alteration, Mr. Subba Aiyar?

MR. V. SUBBA AIYAR (*Additonal Head Sirkar Vakil*): I would rather omit the word 'or' in line 3.

PRESIDENT: Do you accept that amendment, Mr. Narayana Pillai?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I have no objection to accept it and hence I withdraw my amendment.

The amendment was, by leave, withdrawn.

PRESIDENT: The word "or" before "for any of the purposes" in line 3 of clause 23 will be deleted.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I beg to move the following amendment:—

Insert the words 'or continued' between the words 'made' and 'between' in Proviso (*a*) to Clause 23.

The clause as it stands does not prohibit the entry into the house of any private individual being continued between sunset and sunrise. Suppose a person makes an entry into the house of a private individual, say at about 5-30 P. M., and he continues his business till midnight. That is practically authorising a man to make an entry in an indirect way when he has no direct authority to do so. Therefore I should submit it is questionable and tends to defeat the object of the law.

PRESIDENT: So you want to clear him out as soon as it is sunset.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I submit it is open to question whether we would be justified in allowing an entry made before sunset to continue till midnight. The Panchayat authorities may persist in continuing the entry right up to any time during night. That may cause serious discomfiture to the inmates of a house, especially when the customs and manners prevailing in the country do not encourage such proceedings. Therefore, under colour of the law, if any one makes an entry at a particular time and its continuance is not specifically prohibited, various things may be committed by the Village Panchayat. It is to guard against such contingencies that I move my amendment.

PRESIDENT: I think that it does not read well and that we will have to alter the language of the Proviso if the amendment is to be accepted. You do not speak of an entry being continued.

MR. J. JOHN NIDIRY (*Changanachery cum Minachil*): I second the amendment moved by Mr. P. K. Narayana Pillai.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): My friend is rather hypercritical, because I do not think any officer

LIBRARY ARCHIVES Kerala Legislative Assembly

authorised by a Panchayat who goes to see whether a house is in a sanitary condition or not need be detained there for a long time.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): For the purpose of executing a work?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Certainly a work is not going to be executed after sunset or till midnight. But I think my friend is familiar with a matter of everyday occurrence where, under Section 268 of the Civil Procedure Code, any process or any attachment or any seizure of property has to be made. Section 268 of the Civil Procedure Code runs as follows:—

"No person executing any process under this Code, directing or authorising seizure of movable property, shall enter any dwelling-house after sunset and before sunrise, or shall break open any outer door of a dwelling-house....."

So far as I know, no inconvenience has been caused by such a provision which is availed of almost every day. If we say that it ought not to be continued after sunset, serious inconvenience would be caused by the interpretation to be put on the wording of the Section. The language used is the same as in similar enactments which are very well known all over the country and has not given room for any inconvenience and so I do not think it will cause any inconvenience in the case of Panchayats. Any deliberate change in the language would give room for a different interpretation.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Mr. Subba Aiyar has pointed out that this is the language used in the Civil Procedure Code and other Regulations. I think it is very legitimate to have used the same language here because uniformity of language in these matters is an important point. Here is an instance to prove such a thing. Sunset and sunrise are necessarily vague terms. The sun may set on one day at 6-35, and on another day at 6-40. On a cloudy day it will be impossible to fix at what particular moment the sun has set. So we must trust to the good sense of the people who effect the entry and also the strength of the people to prevent the illegal entry. Therefore once there is latitude in the terms sunset and sunrise, I do not think any more rigorous rule should be enacted. My friend knows, that, in the case of civil wrong, there is what is called trespass *ab initio*. He also knows that, when a person enters a place for a lawful purpose and he remains there for some time, then the original lawful entry is rendered unlawful. So that, in case an officer of the Panchayat enters a house even before sunset and remains there after sunset for doing anything under colour of the Regulation, that will stand on the analogy of trespass *ab initio*. It is impossible to fix the point of time by reference to the clocks. Even if a reference is made to the clocks they may show different times in spite of our boasted civilization, as no two clocks would agree. I do not think that any useful purpose will be served by modifying the rule. No doubt, I understand the fear entertained by my learned friend Mr. Narayana Pillai. There are some people who in the mask of authority would try to override the law if it suited their purpose. But after all it is the Panchayatdars who are responsible for this action and no small officer who is employed by the Panchayat will

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

be able to do this, because the Panchayatdars will be the inhabitants of the village. There is the practical difficulty of making rigorous rules in conformity with the other Regulation. The Civil Procedure Code has been in existence for a very long time, and the complaints of the nature suggested by my friend Mr. Narayana Pillai are not very many. I am therefore for retaining the present language of the clause.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I am sorry that I cannot agree with my friends Messrs. Subba Aiyar and Velu Pillai. The Section of the Civil Procedure Code which has been quoted applies only to the service of processes. That is an act which does not take much time. Therefore it is not a satisfactory answer.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): The seizure and attachment of movable property also.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Section 268 of the Civil Procedure Code is the attachment Section.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): In the case of the Civil procedure Code, very efficient supervision is being exercised by learned judges and munsiffs, who know the law better than the Panchayatdars.

PRESIDENT: They do not accompany the Amins.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): But necessary guidance is afforded by persons who are dealing with the law. In the case of the village Panchayats, unless they are told, they are likely to over-step. For example, various things have been enumerated as falling to the lot of the Panchayats to be executed for the sake of the village. They have to execute works upon certain properties. They have to conduct examination of certain places. All these require the presence of the servants of Panchayats upon other people's property. The question is whether in such cases it would not be better to define clearly the time-limit to the Panchayat or their servants that may enter a place of residence. It is with that view that I have brought this amendment prominently before the House. The provision in the Civil Procedure Code cannot be an answer to the particular difficulty pointed out. Then, as to the question of civil trespass, etc., I beg to say that it does not arise in the present instance. Therefore, I do not think that it requires an answer. For these reasons, I press my amendment.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): One further reason is this. Under the Civil Procedure Code, the courts are situated elsewhere. But in the case of the Panchayats I do not think that any subordinate will be allowed to disobey the Regulation or the Rules as the Panchayatdars are men on the spot.

The amendment was put to the vote and lost.

LIBRARY ARCHIVES Kerala Legislative Assembly

PRESIDENT: Clause 23, as amended, runs as follows,—

"Any member, officer or servant of a Panchayat may enter into or upon any building or land with or without assistants or workmen, in order to make any inspection or execute any work for any of the purposes of this Regulation:

Provided that—

(a) no such entry shall be made between sunset and sunrise;

(b) unless the entry be with the consent of its occupier, no dwelling house shall be so entered without giving reasonable previous notice signed by the chairman or by a person duly authorised by him in this behalf of the intention to make such entry; and

(c) due regard shall be had in making such entry to the social and religious usages of the occupants of the premises entered".

The Clause, as amended, was added to the Bill.

Clause 24.

MR. C. SANKARA MENON (*Quilon*): The amendment relating to the deletion of the words "subject to the previous sanction of Our Government" in sub-clause (1) is consequential on amendment No. 21. Hence I beg permission to move the latter amendment first.

PRESIDENT: Yes; you may do so.

MR. C. SANKARA MENON (*Quilon*): I beg to move the following amendment:—

Add the following as sub-clauses (3) and (4) to Clause 21:—

(3) "All such bye-laws shall take effect only after they have been approved by Our Government and published in Our Government Gazette."

(4) "Any bye-law made under this Regulation may be repealed, altered or amended by the Village Panchayat subject to the provisions of sub-section (3)".

There is no provision for the *publication* of bye-laws framed by the Village Panchayat. People ought to know and should be made aware of the bye-laws that may be framed by Panchayats especially in view of the fact that the bye-laws provide for a fine being imposed for any violation of them. It is not therefore proper that they should be made liable for anything done by them without giving them information about the rules or bye-laws that may be passed by the Panchayat. Therefore I suggest the addition of sub-clause (3).

Then with regard to sub-clause (4). It only enables the Panchayat to alter or modify the bye-laws that may be framed by them. No doubt, there is a provision in the General Clauses Regulation that an authority which is empowered to make rules is also competent to repeal them. But it is not stated here how those alterations should be made. And there are also similar provisions in the Municipal Regulation. Therefore I propose that this sub-clause also be added.

MR. N. PADMANABHA PILLAI (*Karunagapalli*): I second it.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): With reference to sub-clause (4), namely that any bye-law made under this Regulation by a Panchayat shall be liable to be repealed, I beg to say that it has been provided in the General Clauses Regulation. So it was thought not necessary to provide for it here. Any how, if Mr. Sankara Menon wants it, I have no objection to put it in. As for the first portion of the amendment *i.e.*, sub-clause (3), that all bye-laws sha

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

take effect only after they have been approved by Government and published in the *Government Gazette*, I do not think that publication in the *Government Gazette* of *all* the bye-laws of *all the Panchayats* is necessary.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): How are the people otherwise to know of the existence of the bye-laws?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): They will be available in the Panchayat offices and Pakuthi Cutcherries. As there are about 400 villages or so, I think it will be difficult to have them published in the *Gazette*.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): What is there to show that publication is obligatory? Is there any provision that the bye-laws should be *published* at all?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not think that there is any such thing. It is with the publication in the *Gazette* that I am concerned now. It will be unnecessary to publish all of them in the *Gazette*.

PRESIDENT: It will mean a good deal of expenditure also.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): There are more than 400 villages.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): Are not such publications in the *Gazette* republished in the Vernacular papers.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I have no objection to have it published 'in the manner prescribed'. Rules may be provided as to how they may be published. If in the amendment the words "in our *Government Gazette*" are omitted and the words "in the manner prescribed" are put in, I will accept the amendment.

MR. C. SANKARA MENON (*Quilon*): I have no objection. There ought to be a provision for publication. That is all I want.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): May I know whether these bye-laws are intended for administrative purposes or purely for the guidance of the Panchayat?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): For administrative purposes, I suppose.

MR. N. KUMARAN (*Nominated*): They provide for penalties also.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): They have the force of law.

MR. V. SUBBA AIYAR (*Additional Head Sikar Vakil*): The publication in the *Gazette* need not be the only method. So what I say is 'publication in such manner as may be prescribed', because it will be very difficult to publish all the bye-laws of the 432 villages in the *Gazette*

LIBRARY ARCHIVES Kerala Legislative Assembly

and it will not also serve any useful purpose. So they may be published by tom-tom, by affixing the bye-laws in the Panchayat offices or in the Pakuthi Cutcheries, or in such manner as may be thought necessary or expedient by the Village Panchayat.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): The most satisfactory procedure would be if the same were published in the Gazette.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The difficulty is one of cost.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): All of the villages are not going to be constituted as Panchayats at one stroke.

PRESIDENT: There will be a very large number of them.

MR. V. SUBBA AIYAR (*Additional Head Sikar Vakil*): These are the remarks I have to make on the amendments. Owing to considerations of cost, I thought the publication in the Gazette need not be prescribed.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): Public safety is more important than cost.

PRESIDENT: Mr. Subba Aiyar, do you accept the amendment?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes, I admit. If the House considers publication in the *Gazette* essential, I accept the amendment.

PRESIDENT: I take it that the House accepts the amendment.

The amendment was accepted by the House.

MR. C. SANKARA MENON (*Quilon*): I move the following amendment:

"In sub-clause (1), line (1), of Clause 24, the words "subject to the previous sanction of Our Government" be deleted."

As this is only consequential on the previous amendment, I move it for the acceptance of the House.

MR. N. PADMANABHA PILLAI (*Karunagapalli*): I second it.

PRESIDENT: I take it that the House accepts the amendment which is only consequential.

The amendment was accepted by the House.

PRESIDENT: Clause 24 as amended runs as follows:—

24. (1) A Village Panchayat may frame bye-laws consistent with this Regulation and the rules framed thereunder for carrying out the purposes of this Regulation.

(2) Such bye-laws may also provide a penalty not exceeding rupees ten for every breach thereof.

(3) All such bye-laws shall take effect only after they have been approved by our Government and published in Our Government Gazette.

(4) Any bye-law made under this Regulation may be repealed, altered or amended by the Village Panchayat, subject to the provisions of sub-section (3).

The question is that the Clause as amended do form part of the Bill.

The Clause, as amended, was added to the Bill.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

Clauses 25 and 26.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Sir, I beg to move the following amendment:

Insert, in line 3 of sub-section (1) of Clause 25, the words 'subject to the safeguards as regards revision and' after the word '1090', and insert 'or without' after 'with'.

The apparent meaning that strikes one is that, without modification or exceptions, the powers provided for under Regulation I of 1090 cannot be conferred upon any Village Panchayat. That is the apparent sense that would occur by the reading of the Section. Now it may be that some of the provisions of Regulation I of 1090 may call for no modification or exception before they are conferred upon the Panchayat. That is one objection. Therefore 'with or without' is necessary in making mention of modifications and exceptions.

Then another thing is that the Section speaks only of the conferring of powers upon the Panchayat; but, under Regulation I of 1090, there are certain safeguards provided for preferring a revision to a higher tribunal. When powers are sought to be conferred upon the Village Panchayat, it does not necessarily follow here that the safeguards provided for testing the validity of any decision are also carried along with them. Therefore, I am keen in seeing that it must be subject to the safeguards provided for testing the validity of any decision under Regulation I of 1090. It is with that object in view that I brought forward this amendment. Under Regulation I of 1090, the decision of a Panchayat Court is liable to be revised by the District Court or the High Court as the case may be. Now, if the liability to revision is kept back and powers of adjudication alone are confered upon the Panchayat, it would be considered disadvantageous by the litigant public. Hence I am moving that such safeguards should be provided for under this Regulation also. I propose that the words 'subject to the safeguards as regards revision and' be inserted after the word '1090' and the words 'or without' be inserted after the word 'with.'

MR. N. KUMARAN (*Nominated*): I second it.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If, as my friend states, the expression 'with such modifications or exceptions as may be prescribed' necessarily means that Government may avoid the provisions relating to revision under Regulation I of 1090, I believe that objection could be remedied if we add the words 'if any.'

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): That would be quite sufficient.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If my friend says that the Section, as it is, relates only to such of the powers as may be conferred by the Government by notification in the *Government Gazette* and that revisional powers should be specifically made mention of, and if that argument is correct, then there may be other Sections which do not exactly relate to the powers of the Panchayat. Therefore, the question is whether the amendment, as it is, could be accepted. I think, it would be enough if we put it as follrws:—

LIBRARY ARCHIVES Kerala Legislative Assembly

"Our Government may, by notification in our Government Gazette, extend all or any of the provisions of Regulation I of 1090 to a Village Panchayat with such modifications or exceptions, if any, as may be prescribed."

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I am prepared to concede that it is safer than the existing provision.

PRESIDENT: I think that would be more comprehensive.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If we restrict it to powers of revision, there may be one or two Sections which do not specifically relate to *powers* but *duties*, strictly speaking.

MR. P. K. NARAYANA PILLAI (*Ampalapuzha*): The power to appeal to a higher tribunal is not anywhere made mention of in this Regulation.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Section 73 of Regulation I of 1090 provides for such revisional powers. According to that section, such revisional powers are conferred on the High Court and the District Court. I think the amendment that I suggested is comprehensive enough to satisfy Mr. Narayana Pillai. I would recast the Section as follows:

"Our Government may, by notification in our Government Gazette, extend to the Panchayat all or any of the provisions of Regulation I of 1090, with such modifications or exceptions if any, as may be prescribed."

Government have a right, according to the above amendment, even to modify the Sections. Therefore it is that I put it in the above amendment as '*all or any of the provisions with such modifications if any.*' For instance, there is a Section which says that the Village Panchayat Court shall have powers to adjudicate upon suits up to the value of Rs. 30 or so. It may be that some modification of that particular section may be found necessary later on. Government should be empowered to do that. It is with that end in view, that I put it as 'all or any of the provisions with such modifications or exceptions if any.'

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is it implied that revisional jurisdiction also should be extended?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): I second the amendment moved by Mr. Subba Aiyar. The apprehension of my friend is whether this legislation takes away the revisional powers vested in the High Court. I submit that, unless the revisional powers specifically vested in the High Court are specifically taken away by this Regulation, the High Court must still continue to exercise the revisional powers vested in them. You cannot repeal a Regulation by mere implication, especially when the scheme of that Regulation contemplates revision by an appellate tribunal. Unless this power of revision is expressly taken away, I think the High Court will still continue to exercise the powers of revision. My submission is that we are now dealing with the powers conferred on statutory bodies like the Panchayat. My friend's apprehension is whether the powers vested in the High Court will, in

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

any way, be repealed by mere implication. I think Mr. Subba Aiyar's amendment would be quite enough.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): What is Mr. Subba Aiyar's amendment?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): As amended by me, the Section reads thus:

"Our Government may, by notification in our Government Gazette, extend to the Panchayats all or any of the provisions of Regulation I of 1090 with such modifications or exceptions, if any, as may be prescribed."

Of course, the Village Panchayat Court is a Court subordinate to the High Court and therefore the High Court has revisional powers in all cases.

PRESIDENT: Do you accept the amendment, Mr. Narayana Pillai?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I am sorry, I cannot accept it without something more. I may point out this aspect of the question. The Panchayat Court Regulation, I of 1090, provides two revisional courts, the District Court and the High Court. What Mr. Subba Aiyar proposes to do is that the existing Section may be so amended as to enable the Government to extend to the Panchayats formed under this Regulation, all or any of the provisions of the Panchayat Courts Regulation, I of 1090. It may so happen that the Government would extend only some of the provisions of that Regulation. The provisions relating to revision either by the High Court or the District Court may not be extended.

As to the aspect of the question urged by Mr. Krishna Aiyangar, I may tell him that the revisional jurisdiction of the High Court is a creature of the Statute. My friend seems to think that, except when specifically exempted, the District Court and the High Court will have jurisdiction to revise the decisions of the Panchayat Courts. The revisional power of the High Court and the District Court is their inherent power according to my friend. But in the matter of Civil Small Cause decisions, it is quite well-known that the District Court has no revisional jurisdiction. It is only the High Court that has revisional powers in Small Cause cases in spite of the so-called inherent powers vested in the appellate courts. For every petty amount of Rs. 6 or Rs. 10, which may be the maximum jurisdiction of the Village Panchayat Court to be formed under the Regulation, is it worth while to call upon the party to proceed to the High Court to revise the decision of the Panchayat Court? Under Regulation I of 1090, he can have the decision revised in the nearest District Court. It was wisely provided so in Regulation I of 1090. Therefore I am keen that provision should be made for vesting both the District Courts and the High Court with powers of revision, so that parties should be in a position to appeal to the nearest District Court against the order of the Panchayat Court.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): May I ask my friend Mr. Narayana Pillai whether, in case the revisional jurisdiction is vested in the High Court alone, the effect will not be that from the thousand villages that are to be created under this Regulation, a very large number of cases are taken up to the High Court itself for revision, thereby preventing the High Court from doing it properly?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*). Exactly; I appreciate the question and I answer it fully in the affirmative. Mr. Velu Pillai's question creates in me a further apprehension that, in addition to the Third Bench, a Fourth Bench of the High Court also may have to be created, and at the time of the budget, there would be much bickering between my friend Mr. Subba Aiyar and myself in the matter of extension of the High Court in the shape of Benches. So, to avoid all these contingencies, it is desirable specifically to provide in this Regulation that any decision of the Panchayat must be open to the revisional jurisdiction of the District Court as well as of the High Court. Therefore it is that I suggested that it must be subject to the safeguards provided as to revision. The Government should be at liberty to confer powers upon the Panchayats to be formed under this Regulation, only subject to the safeguards of revision provided in Regulation I of 1090, and not otherwise.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, my friend is prepared to admit that the Government may be empowered to extend all or any of the provisions of Regulation I of 1090 with such modifications or exceptions as may be prescribed. What he is anxious about is that they may say all at once that there shall be no revision of the decisions of Village Panchayat Courts, when they issue their notification or when they make modifications, if they so think fit. I think, that is a fear which has no foundation. I believe that, before any modification of Regulation I of 1090 is made, the High Court will be consulted as to the nature of the powers to be conferred on the Panchayat Courts, as to the safeguards necessary and all that. Let us suppose that Government modify Regulation I of 1090 in such a way as to make Section 73 of that Regulation inapplicable to the Panchayats created under this Regulation. In such a case, it is open to this House, or to any member of this House, to come forward and say that it works hardship and that Section 73 should be made applicable to these Panchayats also. Further, the power of revision vested in the High Court is not mentioned in the Village Panchayat Courts Regulation at all. It only refers to Section 73 which confers the power on the District Court. There is the question whether the *High Court* can exercise revisional jurisdiction. My friend Mr. Narayana Pillai said that the High Court also has the power of revision. That is the general power of revision which the High Court has. It is not certainly in the Village Panchayat Courts Regulation. The High Court gets the power because it is accepted on all hands that the Village Panchayat Court is a Court subordinate to the High Court.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I draw my friend's attention to the Civil Procedure Code where the High Court is given revisional jurisdiction over all Civil Courts?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The Village Panchayat Court to be formed under this Regulation will be a Civil Court subordinate to the High Court and therefore the power of revision, vested in the High Court over the Village Panchayat Courts now existing, is derived, not from anything contained in Regulation I of 1090, but from the provision in the Civil Procedure Code which is wide enough to include the Village Panchayat Courts also within the category of subordinate Courts.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I ask Mr. Subba Aiyar whether the revisional power vested in the High Court is an inherent power or a creature of the Statute?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I say it is both, because the Civil Procedure Code specifically mentions it and it is an inherent power of the High Court also. If the High Court has powers of revision, it is in the interest of Government to see that the fear anticipated by Mr. Narayana Pillai is avoided so that the High Court may not be flooded with all manner of revision petitions. It is the interest of Government to see that some subordinate body like the District Court is invested with revisional jurisdiction, because, otherwise, additional Benches of the High Court may have to be constituted to revise the decisions of the Village Panchayat Courts. Therefore, I say, there is no room for any fear. It is very necessary to take particular care to create an intermediate revisional authority like the District Court so that the High Court may not be overburdened with unnecessary work. That, I believe, is a sufficient guarantee to meet the argument. Further, if we make specific mention of Section 73 of Regulation I of 1090 alone, probably there may be other Sections in that Regulation which may be equally important. We would have to mention ever so may other Sections also. I think it is better to leave the discretion to Government as regards the modifications and exemptions to be made. In these circumstances, I do not think Mr. P. K. Narayana Pillai will still insist on pressing his amendment.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): It may be put to the vote.

The amendment was put to the vote and lost.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Was my amendment voted as against Mr. Subba Aiyar's amendment?

PRESIDENT: Mr. Subba Aiyar's amendment has not been voted upon.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Mr. Subba Aiyar has accepted a portion of my amendment, *viz.*, the addition of 'if any.'

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I have included it in my amendment.

PRESIDENT: I shall now put Mr. Subba Aiyar's amendment to the vote.

As amended by Mr. Subba Aiyar the Section reads thus:

"Our Government may, by notification in our *Government Gazette*, extend to the Panchayats all or any of the provisions of Regulation I of 1090 with such modifications or exceptions, if any, as may be prescribed."

The amendment was accepted by the House.

Clause 25 as amended and Clause 26 were added to the Bill.

Clause 27.

PRESIDENT: There are two identical amendments. You may move the amendment, Mr. Sankara Menon, and Mr. Parameswaran Pillai may speak in support of your motion.

MR. C. SANKARA MENON (*Quilon*): Sub-clause (*a*). I beg to move that the following be added as a further Proviso:—

"Provided further that it shall not be competent for any such Bench to try cases involving the adjudication of title to or possession of immovable property."

A large majority of cases, under Sections 379 and 427, of the Penal Code, that come up before the subordinate Magistrates' courts deal with disputes relating to the title to or the possession of immovable property. Even though the value of the property or the damage sustained by loss of possession may be less than Rs. 10 or Rs. 12, the value of the subject matter in dispute may be much greater and it may also involve adjudication of complicated questions of law and conflicting documentary and oral evidence to ascertain whether a person is guilty of the offence charged against him. Therefore, the Village Panchayat, at any rate at this stage, should not be invested with that power. Even the Village Panchayat Courts are not allowed.—

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Does he mean the Bench Magistrates' Courts?

MR. C. SANKARA MENON (*Quilon*): I mean the Village Panchayat Courts. Even these Courts are not invested with the powers of trying cases relating to immovable property even though the value of the subject matter is within their jurisdiction. Therefore it would not be advisable to invest the Village Panchayats with power to try cases involving disputes relating to immovable property.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I would second the amendment. I have only to draw the attention of Mr. Subba Aiyar to a similar provision, in regard to Bench Magistrates, in the Criminal Procedure Code. The proposed amendment is practically an extension of the same provision to Village Panchayats.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am not sure whether the provision in the Criminal Procedure Code relating to the Bench Magistrates is exactly the same. I believe the provision finds a place under the rules, power to frame which is conferred by the Criminal Procedure Code. Rules framed in pursuance of

LIBRARY ARCHIVES Kerala Legislative Assembly

[Rao Bahadur K. A. Krishna Aiyangar.]

such power say that the Bench Magistrates have no power to enquire into offences relating to immovable property.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): May I know from Mr. Subba Aiyar whether, in the Bill as it stands, there is any provision for such cases?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): There is a provision about theft. The accused may say, in a case of theft of cocoanuts, that the garden belongs to him. The question of theft ceases to arise in such a case.

I have no objection to accept the amendment.

The amendment was accepted by the House.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I beg to move that clause 27 be numbered as 27 (1) and that the following be added as sub-clause (2):—

"(2). In the case of any dispute regarding the value of property alleged to be stolen or loss or damage alleged to have been caused either under this Section or under Section 34, the question should be settled at the outset, and the decision shall, subject to the result of an appeal to the District Magistrate to be preferred within 30 days, be final."

Clause 27 of the Bill states that the offences of theft and mischief may be tried by the Village Panchayat Courts to be formed under this Regulation when the value of the stolen property or the loss caused by the offender does not exceed Rs. 10. That is the jurisdiction conferred upon the Village Criminal Courts under this Regulation. Suppose the accused says, at the very beginning of the case, that the value of the property is more than Rs. 10, while the complainant maintains that it does not exceed Rs. 10. The question of the jurisdiction of the Court has to be determined before proceeding with the case. It may be that the objection raised by the accused is disregarded by the Court and the trial is proceeded with and the accused punished. Ultimately the whole question may be raked up in a revision before the District Magistrate or the High Court, as the case may be, and they may come to the conclusion that the Village Court had no jurisdiction because the value of the article stolen or of the loss sustained ousted the jurisdiction of the Village Court. The proceedings of the lower court would be quashed in such circumstances.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): Does he think that it is open to the District Magistrate or the High Court to go into the question of fact as to the value of the subject matter of the suit?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): It is a question of jurisdiction of the Court and therefore a question of law.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): As regards the value of the subject matter, the finding of the Magistrate has to be accepted.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): It is not entirely a question of fact. It is a mixed question of fact and law because the jurisdiction of the Court has to be determined.

PRESIDENT: There is no difficulty in regard to law. Once you grant the fact, the law is quite clear; it automatically follows.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Suppose, as a matter of fact, an article is worth Rs. 100 and the Village Court is of opinion that it is worth only Rs. 8. Is the party to be left without any recourse to the higher tribunal, to decide the jurisdiction of the Court? The article stolen may be an elephant. The Village Court, in their anxiety to have jurisdiction over the case, may say that the elephant is worth only Rs. 7. It would really be very hard if the party was precluded from having recourse to a higher tribunal to decide the question of the jurisdiction of the Village Court, on the simple ground that the value of the subject matter was a question of fact. The High Court should have power to interfere in such cases.

PRESIDENT: You are advancing an argument for providing a general power of revision.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): No, only when the question of fact affects the jurisdiction of the Court. Therefore, I am of opinion that when the question in regard to the jurisdiction of the Village Court is raised in the forefront, that is a matter to be decided first. That is the object with which I propose this amendment, so that after a trial and conviction there should not be any trouble by way of retrial on the ground of absence of jurisdiction. As it is, it would be harassing the accused. The question of jurisdiction has to be settled in the light of facts furnished by both parties and hence I would provide that disputes regarding the value of property alleged to have been stolen, or damage alleged to have been caused, should first be settled and if need be by an appeal to the District Magistrate. That is the object of my amendment.

MR. JOSEPH PANJIKARAN (*Shertallai*): I second it.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, we are dealing with Village Panchayat Courts and the offences that they are competent to try. Considering the fact that such cases are likely to be very few in number on account of the very small value of the subject matter of the suit, I think my friend is not doing justice to the three or four respectable persons of the village who constitute the Bench, when he says that all of them may come to the conclusion that an elephant is worth Rs. 7. I do not think they will say so unless they deserve to be sent to an asylum. We may take it that they are respectable men with common sense who are in a position to know the value and therefore that is a sufficient guarantee. But, anyhow, in order that my friend may not have the fear that if they commit breach of the law there may not be any revision, I think he will be satisfied if in Clause 42 we add the words "or that the Bench exercises any jurisdiction not extended to it by law" after the words "on the ground of corruption, partiality or misconduct on the part of the Bench." I

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. T. K. Velu Pillai.]

suppose, if that is added, all the errors of law as to the value of the property stolen and other matters may be covered by them, in the revision Section, namely Section 42. Therefore, I will not make any amendment to the present Clause, but request my friend to propose an amendment to Clause 42 when it is taken up, if that is deemed essential by the House.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Sir, I am not satisfied with the explanation that my learned friend Mr. Subba Aiyar has given. Mr. P. K. Narayana Pillai's point remains unanswered.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): What is the point?

MR T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I will explain. Mr. Subba Aiyar has said that, if the High Court has got the powers of revision, all these mistakes which might arise may be corrected. One of the grounds which Mr. Narayana Pillai raised was that in case the property is more valuable than it was expected to be and the suit is brought before the High Court and the High Court finds that the property is worth more than it was valued by the complainant—

PRESIDENT: You mean the District Magistrate?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): The District Magistrate or the High Court. In that case the conviction will have to be quashed. So, if the administration of justice should go on, there should be a retrial, so that a person has to be put to the worry and expenditure of a second defence before the Panchayat Courts.

PRESIDENT: It is not the Panchayat Court.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Or any other court.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If a Second Class Magistrate tries a case which is triable by a First Class Magistrate, what is the remedy now?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I will answer my friend.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Has he not to undergo all the trial over again?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): That is an instance to show that human institutions are not perfect. But the law is clear, because the Second Class Magistrate has got jurisdiction over certain matters and the First Class Magistrate has got a higher jurisdiction. The number of instances in which a Second Class Magistrate usurps the powers of a First Class Magistrate will be very few.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): That is a thing which depends upon evidence.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): No doubt everything depends upon evidence. But the difficulty is that such

LIBRARY ARCHIVES Kerala Legislative Assembly

conflict of jurisdictions will arise. In the case of jurisdictions of the First and Second Class Magistrates, the law does not say that the Second Class Magistrate has jurisdiction only when the value of the thing stolen is below Rs. 100. On the other hand, if a Panchayat Court should have jurisdiction over theft of property whose value does not exceed Rs. 10, a man may by undervaluing the property go to a Panchayat Court rather than put himself to the worry and agony of attending a distant tribunal. Or it may be even with various other motives that he undervalues. If, without a clear finding about the value, the Panchayat Court proposes to sit in judgment, people may unnecessarily suffer. In the first place, they have not got a competent body of judges. The Panchayatdars, with all the arguments of respectability which my learned friend indulged in, are bound to form an imbecile judicial tribunal for some years, however patriotic we may be. I have discussed the question at some length when the principle of the Bill was discussed. These Panchayatdars are several of them and will several of them be strangers to *Sarasvati* for some time. (*Laughter.*) The result will be that some of them will not be able to estimate properly. My learned friend has also put in another provision that the class of people who may try to help others on payment of money to them and who are useful to all are denied access to the Panchayats.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not know whether Mr. Velu Pillai knows that that provision has been deleted.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): They were not allowed when my learned friend introduced the Bill. I am using the argument to show that my learned friend, when he conceived the idea of the Bill, wanted to exclude the Vakil and he wanted also to instal some of these, I would say, ignorant persons as a judicial board. I submit, Sir, that it is very hard. Some of these people think that a slight is conferred on them when the District Magistrate says that the property is undervalued. So, whatever that might be, that tribunal which does not understand the principles of law and will have all manner of personal affinities to count in that matter, will certainly be prejudiced. We know, Sir, that in the High Court when the judges quash a conviction they send the case for retrial before another Magistrate, feeling that even high class Magistrates will be prejudiced.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Not always.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Sometimes they do. If that is the case with regard to the higher officers of Government who have had training in administrative and judicial work—distinguished double-barrelled graduates—and if the High Court concedes that they are bound to send the case back again for these insignificant matters to the same tribunal, I think, Sir, that the question of value must be found upon in the very beginning. Anybody who wants to object may enter his objection then and the court will have to say that the value is only so

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. T. K. Velu Pillai.]

much. There may be cases in which ignorant people go to court and underestimate the value either consciously or sometimes unconsciously.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): May I know whether such a provision would not be an instrument for protracting litigation?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): It may not always be so. Sometimes it may be protracted. After all, it is not so much of an evil as denial of justice. The cases of protraction will be very few. I therefore am unable to see the force of my friend's argument. There will be cases and cases; but the judges will take their stand on the principle that they should not interfere even when they undervalued the properties in question.

PRESIDENT: That will be only when the value of the property is in issue and the revisional Magistrate will have to go into that question.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): No doubt that might be the intention of the Government and the intention of the legislature. But the Judges and the Magistrates will seldom do it.

PRESIDENT: That will be the issue before the revisional Magistrate and he has got to decide it.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): He has certainly to decide it. Sir, my friend adverted to Small Cause suits. A person may retain a judgment which on the face of it is untenable. The Judges say: "on a question of law alone we interfere". Even in such a case the interference is very rare and a man who goes before the revisional courts knows in 90 per cent. of the cases what the result would be. (*Laughter.*) Now, on the question of the value of the property, if some Magistrate records a finding and if the Panchayatdars are prepared to exercise their jurisdiction on the same allegation, I think, Sir, that it will open the door to much unnecessary suffering. I am one of those who think that these Panchayatdars should not be given judicial powers. When I opposed the very introduction of the Bill, the patriotism of the Council prevailed and I was outvoted. I bowed to the ruling of the House. Having accepted the principle that these gentlemen, some of whom, as I said on a former occasion, come like *Cincinnatus* from the plough, even if these people have to suffer by some provisions of the law, let them have the power to go before a Magisterial judge who has studied the law and administered justice. The value is an important point and therefore I appeal to the good sense of the House to consider all the aspects of the question in spite of the promises held out by my learned friend Mr. Subba Aiyar that the revisional powers of the courts should be enough. They are not enough. We want a more definite ground to stand upon. I therefore appeal once again to the good sense of this House.

LIBRARY ARCHIVES Kerala Legislative Assembly

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): I beg to oppose the amendment of Mr. Narayana Pillai in spite of the earnest appeal of Mr. Velu Pillai to the good sense of the House. My own impression is that the good sense of the House to which he appealed ought for the present to direct its attention to the implication of the amendment. The question before a Bench Court is whether the subject matter of the theft is worth Rs. 10 or Rs. 15. My friend says that they are an illiterate body of people whose judgment cannot be accepted on the value of the articles that they are handling day after day.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I did not say that. I said that some of them would be strangers to *Sarasvati*.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): The most illiterate man has got clearer conceptions of the value of the produce of his locality than a man of education and status like myself, because that is an article that he is handling.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): One word of personal explanation. I have not lost, by my being a man of education, the qualities of the average man. (*Laughter.*)

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): While my friend may claim to have the advantages of education without the disadvantages of illiteracy, I am particularly drawing his specific attention to this fact—you constitute a body of judges. You want them to grow up into a body of experts. The questions that they are to handle are whether a particular claim is right and their finding is to prevail. A man makes a loan and sues for the recovery of it. The defence pleads discharge. Now those people are perfectly competent to try the question whether the debt has been repaid or not on the evidence produced before them. That finding on the question of fact becomes final. The question is what is the value of the articles which form the subject of the suit. If they are perfectly incompetent to have the value estimated, we will allow an appeal on that finding of fact. While that strikes at the very root of Small Cause Courts and Bench Magistrate's Courts and the Village Panchayat Courts, the underlying principle is to educate people to trust one another in their locality and not to develop a spirit of lack of confidence in one another's judgment or one another's character. If there is a serious allegation that the judge was corrupt, on that sole ground the District Magistrate is allowed to set aside the conviction. If there is miscarriage of justice a later Section empowers the Magistrate to set the decision aside. It is perfectly competent for the Panchayat Court to say that a person charged with theft has committed theft and that the debt has not been discharged in a suit against a man for not having paid the debt. But now such a finding is final even if it is not correct; even if there has been miscarriage of justice such a decision is final. The District Magistrate should solemnly sit in judgment over the finding of the Village Panchayat Court and say that it is worth not Rs. 10 but it is worth Rs. 10 and Ch. 1 to oust the

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. K. Parameswaran Pillai.]

jurisdiction as if the real interests of justice were being jeopardised by the power not being given to the District Magistrate to take it up and to record the finding and see whether it is worth Rs. 10 or Rs. 10 Chs. 2. It appears to me that the apprehension which suggested the amendment is certainly unsubstantial. In any event, it would not justify a serious interference with the essential principles in dealing with local institutions, when we propose to confer on them powers to dispose of simple questions of fact without subjecting the decision to revision by an appellate authority. I therefore oppose the amendment.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): Sir, I also oppose the amendment. In the first place, I should take exception to the wording of the amendment itself. The amendment is:

"In the case of any dispute regarding the value of property alleged to be stolen or lost or damage alleged to have been caused either under this Section or under Section 34, the question should be settled at the outset, and the decision shall, subject to the result of any appeal to the District Magistrate to be preferred within thirty days, be final."

As far as we can understand, a decision is final when it is not subject to an appeal. But my friend when he wants to make it final makes it subject to an appeal and therefore the expression itself is contradictory. The framing of the amendment therefore is objectionable on that ground.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Will my friend illustrate the statement because it is not clear?

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): If a decision is final, then there can be no appeal against it. That is what we mean by a final decision. But, if the decision is subject to an appeal, it ceases to be final.

PRESIDENT: You object to the wording?

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): Yes. The decision which is said to be final is also subject to an appeal. This is a contradiction in terms. Therefore the wording of the amendment itself has to be altered.

Secondly, the scheme of this enactment is to confer a summary jurisdiction upon the Village Panchayat Court. They are, as has been pointed out, entitled to award damages. They are also entitled to punish a man with a fine extending up to Rs. 10 and such decision should be treated as final. In such a case, the decision is not even subject to revision except on the ground of corruption and such other things. Yet my friend wants their decision in regard to the value of the subject matter in dispute to be subjected to an appeal to the District Magistrate. Now we are bringing into existence a responsible body and we must start with giving them some credit for self-respect and respectability and not start by disbelieving them at the very outset. Of course, it has been suggested that, when an elephant is the subject matter in dispute between the parties, the Village Panchayat might say

LIBRARY ARCHIVES Kerala Legislative Assembly

that it is worth only less than Rs. 10 and then there is no opportunity for an appeal against that. Well, I should think that it will be a very rare occurrence unless the members of the Village Panchayat have taken leave of their senses altogether. But there may be cases in which an elephant is worth only Rs. 10 or even less. I have heard of a case—

PRESIDENT: I suppose in such a case it will fall under misconduct or under miscarriage of justice anyhow.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): It can come under that. There may be cases in which even an elephant is not worth more than Rs. 10. I know of a case where a person purchased a horse for Rs. 20 which died on the way to his home and he had to spend Rs. 25 for burying the animal. (*Laughter.*) There may be animals of that kind. We are not enacting for such exceptional cases and what I say is: "Let us start with trusting these people." So far as the powers we give them are concerned, let us trust them. Let us suppose that they will only do justice and what is dictated by their conscience, common sense and education; and if we find that they misbehave afterwards, then there is this Council itself which can repeal this enactment. It is therefore unnecessary that we should start with providing for an appeal against the decision as to whether the subject matter of a particular dispute between the parties before a Panchayat Court is worth Rs. 10 or more. Of course, these questions of jurisdiction ordinarily are final unless the enactment itself provides for an appeal; and in this case I agree with my friend in thinking that that question should be settled first where the dispute is as to whether the Panchayat has got jurisdiction to try a particular case. It must be considered first and I think the general law requires that questions of jurisdiction should be decided first. But the decision, I think, should be final.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I wish to ask Mr. Parameswaran Pillai how the court is to find out whether a property is worth Rs. 10 or more in a case where the stolen property is not before the court.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): It will examine the parties and take evidence.

PRESIDENT: In most of these cases, the stolen property will be before the court.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I consider myself unfortunate in being still left unconvinced by the arguments of my friends who have taken a different view from mine. The argument of my friend Mr. Krishna Aiyangar, when analysed, comes to this. In spite of their illiteracy, it may be taken that the inhabitants of the villages know the value of the property that they deal with much better than many of us. That certainly may be correct. For they know the value of cocoanuts, of cabbages, of grass, etc., which would be the staple commodities that would be found necessary for use in the village. But their

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

knowledge may not unfortunately extend further. It may be a watch or a fountain-pen or a fiddle or a book that may be stolen in a particular village. It is there that the knowledge or the wisdom of the villagers may probably be called in question. It is more or less well known to many that traders in uncivilised centres generally impose upon the villagers with respect to some of these articles in the matter of sale and purchase. So that, when it is a case of a watch or a fountain-pen or a book, as my friend Mr. Krishna Aiyar suggests, the villager judge may probably bungle. It is only in such occasional instances that the question would assume any importance. It is not, as was apprehended by Mr. Krishna Aiyangar, in every case that this question would be raised.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*) : May I ask my friend whether, if his amendment was accepted, it is not open to every accused to say that the Court has no jurisdiction and to prefer an appeal to the District Magistrate?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : As it stands, is it not open to him to move the District Magistrate?

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*) : Only on the ground of corruption, but not on the ground of under-valuation.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : The question of jurisdiction will be in the forefront of all cases. People may challenge the competence of the Court to try them so long as you say that the jurisdiction extends only up to Rs. 10. My amendment is only to provide for an occasional contingency of that description. Certainly, when it is only two or three cocoanuts or a handful of cabbage that is alleged to be stolen, no accused will question the jurisdiction. The accused is also an honorable man, except in respect of the particular act of which he is convicted. (*Laughter.*) Very often the accused is more honorable than the accuser. That is also a possibility.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : I wish to ask whether in some cases the accused will not be even more respectable than the Panchayatdars.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : That too may be. There is nothing like an axiom that the accused may not be an honorable man. It does not lie in him to prevent the situation of being an accused. Now what I am submitting is this. It is only occasionally that such questions may arise. There may be a very gross miscarriage of justice. We hear folk-tales of villagers who being impelled by curiosity to get at the root-cause of the sonorousness of a fiddle and suspecting some agency within the instrument are said to have broken open the thing and got disappointed. I do not say that such experiments take place now. All the same, such things

LIBRARY ARCHIVES Kerala Legislative Assembly

may yet take place. (*Laughter.*) It is better to avoid a multiplicity of proceedings against the person accused. Because a case happens to be filed against a person, let us see that he is not put to unnecessary worry by means of it. It is that anxiety that prompted me to raise this question.

Then, my friend Mr. Paramesvaran Pillai said that, now that for the first time we were creating a new tribunal, we should credit the villagers with a sense of self-respect and common sense. Of course, on a prior occasion I found that this House as a collective body was prepared to put much trust in the executive Government even in matters of legislation. We have been trusting Government all along. We resigned therefore our powers of legislation in favour of the Government and trusted that the Government would do the needful for us. If that is the line to be adopted by a legislative body, then I have absolutely no objection. In that case, the work of legislation for which this Council is primarily constituted becomes quite easy. We need only assemble here to delegate our functions distributing the same to various agencies from the executive Government to village corporations from whom, as Mr. Subba Aiyar would contend occasionally, lawyers as a class should be excluded. We may trust and pray that the Village Panchayat would value articles quite all right and correct to ten places of decimal, and hence dispense with the revisional authority of the District Magistrate and the High Court. We may repeal a number of provisions in this fervent hope. But, Sir, I think otherwise and press this motion to a division.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I must again repeat, in the words of Mr. Narayana Pillai, that I stand unconvinced. If we can trust the Village Panchayat to come to a conclusion as to whether the accused is guilty or not and their decision as to the accused's guilt or otherwise is final, I do not know whether the value of the property will not be correctly estimated by three or five persons in the village from the evidence of the complainant's witnesses and the accused's witnesses. After all, the scheme is that they should be entrusted with very small offences of a very small value and try to dispose of them as speedily as possible. To encumber such a piece of legislation with unnecessary detail and also with powers of appeal will be unduly and unnecessarily protracting litigation, because what has been said in the Regulation is that, if a man is convicted of that offence, he shall not be deemed to be an old offender, that is to say, the punishment shall not be recorded as a previous conviction. I do not see why we should give a separate power of appeal to the District Magistrate or anybody. I therefore oppose the amendment.

The amendment was put to the vote and lost.

Clause 27, as amended, was added to the Bill.

Clause 28.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Sir, I beg to move that Clause 28 be deleted.

Clause 28 of the Bill runs thus:

"No Village Bench shall take cognizance of any offence in which the accused is a European British subject."

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

I do not see any reason why we should at this stage give statutory recognition to racial distinction in the matter of administration of justice. A European British subject, if he continues as such, is liable only to very simple offences as contemplated in this Bill, namely mischief, simple hurt or assault. I do not see any reason why an essentially popular body should not take cognizance of any offence even if it relates to a European British subject. On that ground I propose the deletion of that Clause.

MR. A. HOOGEWERF (*Nominated*): How does the Municipal Regulation stand with regard to this?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): The Municipal Regulation does not in any way exempt any British subject at all.

PRESIDENT: That is a fiscal Regulation.

MR. A. HOOGEWERF (*Nominated*): I mean the Bench Magistrates' Regulation.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): The Bench Magistrates are governed by the Criminal Procedure Code which is rather very out of date. The Travancore Criminal Procedure Code has not been amended at all for very many decades and when the amendment is taken up it will fall in line with the altered notion of things.

MR. N. PADMANABHA PILLAI (*Karunagapalli*): I second the amendment.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I oppose it. My simple answer is that the Council is not competent to legislate for European British subjects. That is one of the subjects prohibited by the Legislative Council Regulation.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I point out that we are concerned with the Regulation as it is before the House?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes. The Legislative Council Regulation expressly says that we should not legislate in respect of those persons. In other words it exempts European British subjects.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is the Income Tax Regulation binding on Europeans?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): The Civil Procedure Code?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes. There is, I think, a Section in that which says that it shall be binding upon them.

LIBRARY ARCHIVES Kerala Legislative Assembly

So far as European British subjects are concerned, the matter is subject to so many relations and conventions, and in the Criminal Procedure Code we have, as a matter of fact, specifically exempted even superior courts—for example, the First Class Magistrates' Courts, the Sessions Courts and the High Court—from having jurisdiction over them. That being the case, I do not think that it is open to this House now to say that a European British subject should be tried by a Village Panchayat. To avoid that doubt it is that we say that the Panchayat has no jurisdiction over them. We only say that the Council has no jurisdiction to consider this matter. This is a matter which, as I said, is governed by so many other circumstances which I need not narrate in detail. Although I appreciate Mr. G. Paramesvaran Pillai's view-point that racial distinctions should not be perpetuated, I do not think that the Council has any jurisdiction in the matter.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): I want a ruling from the Chair as to whether this House is competent to consider this matter.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know whether Mr. Subba Aiyar says that this Council shall not consider Clause 28?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not say that.

MR. A. HOOGEWERF (*Nominated*): Will a European be able to sit on a Village Panchayat?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes. He will be subject to the civil jurisdiction of the Panchayat, but not the criminal.

PRESIDENT: Upon the point raised by Mr. Paramesvaran Pillai for a ruling, I may say that the provisions of the Legislative Council Regulation are quite clear.

Section 11 says:

"It shall not be competent for the Legislative Council to consider and enact any measure relating to or affecting.....European British subjects."

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): That supports my amendment to delete Section 28. It shall not form part of the Bill, for the Council is not competent to consider it.

PRESIDENT: In that sense the clause is unnecessary.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Only if we put it in that sense.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I do not put it in that sense. I put it in another sense, which is counter to what Mr. Subba Aiyar says. If he says that the Council is not competent, then this side of the House has no voice.

PRESIDENT: I must say that, in the light of that provision in the Legislative Council Regulation, this Clause should not be there.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): In that view I have no objection to the Clause being deleted.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

PRESIDENT: Then you accept the deletion of the Clause for the reason that the Council has no jurisdiction?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): The question whether the Court is competent to try or not to try a European British subject is a matter which may be argued elsewhere. Now as a matter of law this Council is not competent to consider the Clause. In virtue of that ruling the Clause may be deleted.

PRESIDENT: I gave you only a ruling as to the interpretation of the provision in the Legislative Council Regulation.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Then Clause 28 cannot form part of the Bill.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): May I submit for your consideration that, before we pass on to the next Clause, you have to seek the permission of the Council as to whether Clause 28 can form part of the Bill? That motion has to be formally put before the Council.

PRESIDENT: I do not think even that is compulsory under the rules.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): It shall be open to the Council that the Clause shall form part of the Bill or shall not form part of the Bill on a consideration of the merits. Your ruling takes it beyond the competency of the Council to consider any legislation concerning European British subjects. The whole Clause has to go without considering the question of policy involved in it.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): May I say a word? The point is that the provision in the Legislative Council Regulation applies only to matters affecting or relating to European British subjects as such.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is Mr. Subba Aiyar rising against the ruling by the President?

PRESIDENT: I have not given you any definite ruling yet in regard to Clause 28. I have only told you how I understand Section 11 of the Legislative Council Regulation.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I take it that there has been no ruling from the Chair?

PRESIDENT: Not in respect of the matter whether this clause should be deleted or not.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): My point is that, so far as the legislation affects European British subjects, this Council has no jurisdiction. In the Criminal Procedure Code it is distinctly stated that the Courts shall not try European British subjects and, as the provision is distinct, special Magistrates are appointed therefor. So also it is stated here that in order that the Village Bench shall

LIBRARY ARCHIVES Kerala Legislative Assembly

not fall into an error it is necessary to specify the classes of persons who may fall under the Bill. Until we get a final decision the introduction of the Racial Distinctions Abolition Act which is now in force in British India and which, when introduced, my friends may successfully attack, that provision may be inserted in this Bill also. So long as we maintain that distinction, so long as we are forced to maintain that distinction and so long as we are incompetent to legislate for European British subjects, I say it is better to make it clear that the Bench has no jurisdiction.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): May I ask Mr. Subba Aiyar whether the Criminal Procedure Code does not contain chapters relating to the trial of European British subjects?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): Was it not passed by the Legislative Council?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No, I believe it was passed by His Highness the Maha Raja.

PRESIDENT: Mr. Paramesvaran Pillai, will you kindly state the point on which you want my ruling?

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): The first objection raised by Mr. Subba Aiyar is that, under the provisions of the Legislative Council Regulation, we are not competent to consider and legislate upon this question which relates to European British subjects. Now this is a clause which has been placed before the Council for its legislation. But Mr. Subba Aiyar says that we are not competent to legislate. Therefore I want a ruling as to whether that clause is subject to the consideration of this House. If it is to be submitted for the consideration of the House, then we have got jurisdiction. If it is not, then it must go on that ground.

PRESIDENT: It seems to me that we cannot consider it and we cannot discuss the merits of that clause.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Would it not be better if the President, before he passes his ruling, hears some other members also on what they have to say on this point?

PRESIDENT: I shall be glad to hear all the members. I thought that all of you had finished your say, and therefore I was going to give my ruling. I shall be glad to hear you further and give an opinion. But that does not seem to be necessary. In view of the existence of Clause 11 of Regulation II of 1097 the Clause now under discussion seems to be superfluous and unnecessary.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): In that view I agree to the clause being deleted.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I wish to raise a further point for your ruling. As regards jurisdiction there is a ruling. What I say is whether this Clause 28 involves anything like jurisdiction. That is the point that I wish to raise.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

PRESIDENT: It says that you shall not have jurisdiction.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I want to know whether this Section assumes any jurisdiction over them.

PRESIDENT: No.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Then we can discuss the Clause.

PRESIDENT: No, you cannot discuss it under the existing rules. The Clause will be deleted, as under the Legislative Council Regulation, it is beyond the cognizance of this Council.

Clauses 29 to 32.

The question that clauses 29 to 32 do form part of the Bill was then put to the vote and carried.

The Clauses were added to the Bill.

Clause 33.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Sir, I beg to move that in line 1 "or civil case" be inserted after the word "case."

Clause 33 disentitles a member from hearing a criminal case when he is personally interested in it. On the principle that the *expression* of one thing is the *exclusion* of the other, it may probably be argued that even when a member is interested in a civil case he is at liberty to hear such a case. We have provided for the formation of Benches in Civil and Criminal cases under this Regulation. This applies only to criminal cases. My anxiety is to see that if a member is interested in a civil case he should be excluded from hearing such case.

PRESIDENT: This portion deals with criminal offences, not with civil suits.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Yes; but there is no barring a member from taking part in a civil case even if he is interested in it. Benches in civil suits are contemplated under this chapter.

PRESIDENT: Not under this chapter.

MR. P. K. NARAYANA PILLAI (*Ambalpuzha*): Section 25 for example relates to trials that are exclusively civil.

PRESIDENT: I beg your pardon.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Therefore I thought that the expression 'in a civil case' may be tacked on to it so as to disqualify a member when he is interested in a civil case from hearing it. Hence I move my amendment.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): I second it.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not think the amendment is necessary. If we look to the arrangement of the Section so far as this civil jurisdiction is concerned, it is part of

LIBRARY ARCHIVES Kerala Legislative Assembly

Section 25. The rest of it deals with the formation of Village Benches. The Criminal Court is called a Bench, and a Civil Court, a Panchayat. The rest of the chapter relates to criminal matters. With reference to civil matters, Section 13 of Regulation I of 1090 says that no person who is interested shall sit there. Therefore when Section 25 provides for civil cases, no further provision is necessary. Therefore it was that it was not specifically provided here. All matters that relate to civil cases are included under Regulation I of 1090. This is what that Section says:

"No Judge of a Village Panchayat Court shall try any suit to which he is a party or in which he is personally interested, or shall adjudicate upon any proceeding connected with, or arising out of such suit."

I therefore oppose the amendment.

Mr. P. K. NARAYANA PILLAI (*Ambalapuzha*): Again we trust that the Government would extend that provision of Regulation I of 1090 to the present instance. Under that assurance of Mr. Subba Aiyar, I cannot but withdraw my amendment.

Mr. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): With your permission, Sir, may I point out a verbal defect in the Section? This is what the Section says:

"(i) No member who is *personally* interested in any criminal case shall sit on the Bench which takes cognizance of such case."

"Personally" interested may not include a pecuniary interest or some other special interest. The member may be interested in the case of other persons.

PRESIDENT: I think the Section is comprehensive enough.

The amendment was, by leave of the House, withdrawn.

The question that Clause 33 do form part of the Bill was then put and carried.

The Clause was added to the Bill.

Clauses 34 to 43.

The question that Clauses 34 to 43 do form part of the Bill was then put and carried.

The Clauses were added to the Bill.

Clause 44.

Mr. S. PARAMESVARA AIYAR (*Secretary to Government*): There is a printer's mistake in Clause 44. Sub-clause (4). reads:

"The cost of execution of works recovered under Section 23 (3)."

It ought to be "24 (2)". I move this amendment.

The motion was carried.

Clause 44, as amended, was aded to the Bill.

Clause 45.

Mr. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I beg to move that, after the words "Officer of Government" occurring in sub-clause (2), the words "not below the status of a Dewan Peishkar" be

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

added. In the matter of budget estimates, any officer of Government can revise them on behalf of the Government. What I want is that that officer should be a responsible officer—not a Tahsildar or such persons, but should be at least of the status of a District Officer. It has been in our experience that, in the matter of municipal bodies, even in the case of such Municipalities as the Trivandrum municipality, it is the Government that has to sanction the estimates prepared by them. I think that is at least the case with the Trivandrum municipality.

RAO BAHADUR K. A. KRISHNA AIYANGAR: (*Nominated*) (*Deputy President*): It is so everywhere.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): It is so everywhere. The revision is not at all satisfactorily made. The revision is sometimes even against the very purpose for which certain provisions are made in the budget. This power of revision is a very important one and subordinate officers should not be empowered to exercise it. At least some responsible officer of the status of a District Officer should have that power.

MR. T. KUMARA PILLAI (*Eraniel* cum *Vilavankod*): I second the amendment.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I oppose the amendment for this reason. We have found it difficult, after the creation of so many departments, to see whether an officer not inferior to that of a Peishkar will include an officer of any other department than the Land Revenue Department. This Regulation itself contemplates the appointment of a Registrar. Probably, if a Registrar is appointed, he may be the person to exercise that power. By saying "not inferior to that of a Peishkar," it is difficult to say which officer is superior to him.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): There are similar provisions in other Regulations.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): That is why I say we find it difficult to determine who is superior in status. As an instance, I may say that the Devaswom Commissioner pointed out the other day whether a certain inquiry should be made by the Devaswom Commissioner himself or an Assistant Devaswom Commissioner. So it is better to be specific and clear upon the point. I may say that my friend need not be afraid that the power will be entrusted to irresponsible officers for the reason that, unlike other Regulations, the Government have the responsibility to find two-thirds of the money budgeted for. That is a sufficient guarantee that the checking of the budget will be in very safe hands and therefore my friend may take it that, without embodying that provision, the revision will be entrusted to a very responsible and senior officer who will have to see that essential requirements are provided for and that unnecessary requirements are not allowed. Seeing that the obligation of the Government is to pay

LIBRARY ARCHIVES Kerala Legislative Assembly

two-thirds of the money, I believe the matter may be left to the discretion of the Government even without specific reference to the rank of the officer.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I am sorry I have to oppose the amendment moved by my friend Mr. Paramesvaran Pillai for reasons different from those of Mr. Subba Aiyar. There may be 1,000 Panchayats. It has been said that there will be something like three hundred or more of Panchayats that will have to be supervised by each of the three Dewan Peishkars. So it practically amounts to this that, if there are three hundred Panchayats in a Division, each Dewan Peishkar will have to check the budget estimates of those three hundred Panchayats. It is very difficult under the present conditions.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It is only 150.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Villages may be split up. One Village may be converted into three villages. On the whole, according to this calculation, it is only natural that there may be three hundred Panchayats or more as the case may be.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): There may be amalgamations also.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): That may be. But the chances are that you will give it a lesser territorial jurisdiction so that its activity may be more intense and useful. Therefore, the chances are that villages may be divided and sub-divided especially those like Karimannur in Todupuzha and my figure, 1,000, is quite reasonable. In spite of assurances to the contrary, I must still say that the Peishkar will find it impossible to look into and verify the budget estimates of 150 villages. The Peishkars will say that other officers are necessary to help them; they move in the old grooves. And we know what kind of check it would be possible for them to give to these village panchayats.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know what sort of officers he would like to have to verify these budgets?

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I am coming to that. Mr. G. Paramesvaran Pillai said that the eminence of officers might not after all be sufficient guarantee because, when the budget of the Trivandrum Municipality was scrutinised by the Government, the scrutiny was not adequate and proper. If the Government itself is unable to do it why does he believe that a District Officer like the Peishkar would be able to do it? So that that argument is quite useless to him. I oppose the amendment for another reason. If any power of scrutiny is vested in any officer he must be one who will be able to have some personal knowledge of the same kind of enquiry in order to satisfy himself whether the conditions of the locality are such as the budget estimates will justify. The Peishkar will find it absolutely

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. J. John Nidiry.]

impossible to do that. So, I want a lesser officer than the Peishkar, one who will be able to walk about marshes, one who can climb over hills. My second reason is, why should we distrust the Panchayats? When we discussed the Section we heard gentlemen saying that Panchayatdars would be a set of very decent, respectable, and honest persons. When that budget is passed by that conclave of eminent and eminent enlightened men why distrust them in that matter? They do not want to throw out money on idle speculations. They will not think of spending money on fruitless concerns. Moreover they have every interest towards the inhabitants of the locality. The result is therefore that these people who are given democratic powers to the usefulness of the locality can certainly be trusted with a certain amount of judicious discretion in the application of the funds. Therefore, consistently with the argument about the responsibility and capacity of Panchayatdars, I would have some power vested in the officer of Government and he may not be a very low officer because, as Mr. Subba Aiyar said, as the Government contribute two-thirds of the money, he will be an officer of some status. But, the status need not be that of the Dewan Peishkar. There are considerable difficulties which the Dewan Peishkars are experiencing. They complain they are overworked, and if they are to pass and check the budget estimates of 150 panchayats it means that they will take everything on trust and act upon the information given by somebody and the vigilant check which is expected of them will be entirely absent. For these two reasons, I oppose the amendment moved by Mr. Paramesvaran Pillai.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Sir, upon the assurance given by Mr. Subba Aiyar that the Government will appoint an officer of a senior rank—that was what he said—I withdraw the amendment.

PRESIDENT: He says that one is likely to be—

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): If that is the intention of the Government I have no objection to withdraw the amendment.

PRESIDENT: I take it that the House permits Mr. Paramesvaran Pillai to withdraw the amendment.

The amendment was, by leave, withdrawn.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): In regard to the next amendment, there is another amendment in the name of Mr. Nidiry which goes a little further than mine. I want only to change "two-thirds" into "three-fourths".

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): Sir, I beg to move that the following may be substituted for sub-clause (3) of Clause 45 of the Bill, namely:

"Our Government shall contribute to the village fund the whole of the sanctioned budget expenditure for the year during the first three years after the constitution of

LIBRARY ARCHIVES Kerala Legislative Assembly

the Panchayat, not less than three-fourths of such expenditure for the next three years, and not less than one-half of such expenditure after such period of six years".

The Clause deals with the contribution of Government to the Panchayat. No doubt, the alteration made by the Select Committee is a decided improvement on the original Bill. But, I am of opinion that in the present financial situation of the villagers a further improvement is desirable, especially in view of the recent floods at home and the great European war abroad. One universal complaint about the present day progressive administration is the intensity and variety of taxation with which the people of the state are burdened from time to time. I do not say that additional taxation should be or could be avoided in all cases. But our policy should be to avoid it as far as possible. I believe in Cochin the Village Panchayat system is in force, and I do not know whether they have started the Panchayat with taxation. I believe our old T. I. C.'s also were started without taxation to begin with. I am therefore of opinion that it would be advisable to introduce taxation after seeing the working of the Panchayat for three years and in consultation with the Panchayatdars.

Again, every Panchayat is directed under Clause 47 to levy a cess on lands within the village at such rates as may from time to time be prescribed by the Government. The land tenures and the system of taxation of lands in Travancore are very peculiar and full of difficulties. They have preplexed the ablest of our Dewans and administrators. The last settlement has brought out many inequalities and hardships to the landholders in the State. I doubt whether it is advisable to leave the fixing of rates to the sweet will and pleasure of the executive. Under these circumstances, I think it more advisable to create Panchayats at present with the Government grants and then leave the taxation question to the Panchayats so created and the Government.

PRESIDENT: That is not your amendment.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): That is one more ground for my position that for the next three years no taxation should be allowed. The Panchayats should be started with the Government grant and after three years' experience they should begin taxation in consultation with the Government.

PRESIDENT: The Clause dealing with taxation is Clause 47.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): I therefore pray for a careful consideration and acceptance of the amendment by the House.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I second it.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I oppose it on the ground that, as this House has reposed considerable trust in Government with respect to a number of previous provisions on this point of taxation, I am prepared to put trust in them in this case also.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

I hope the Government will be so kind towards persons on whom the incidence of taxation falls in the present instance as to regulate it quite smoothly so that they may take it as a pleasure and not as a piece of trouble. Viewing the matter in that light, how can we foresee any complaint in the matter? So let the cess be gently imposed to make the people merry over it and let the villages be attracted to it that in course of time they may be initialled as self-governing bodies into all the mysteries of painless taxation. On the whole, everything would be safe under Government. It is the Government that would direct the methods of taxation in the present instance. There is nothing for the villagers to attend to for some time. Therefore the villagers may remain even uninitiated in the process of taxation; so long as the Government are the body that would be entrusted with the powers of direction, so long as it is for them to apply the mild screw of taxation, and so long as we are prepared to trust the Government in the field of taxation, I do not see any objection to the existing provision.

The Council rose for lunch at 2-10 P. M. and reassembled at 3-10 P. M.

Clause 45.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I oppose the amendment. The amendment proposes that during the 3 years after the constitution of the Village Panchayat the Government should defray the whole of the expenditure, for the next three years not less than three-fourths of such expenditure and thereafter not less than one-half. In the first place, I beg to state that, when a Village Panchayat undertakes to administer to the needs of the people, it must also undertake to defray a certain amount of expenditure. It has been admitted at any rate it is clear that there are about four hundred and thirty-two villages in the State, and that, out of the 432 villages, we may take it that about 200 villages will, to begin with, have 200 Panchayats, and if we put the average expenditure of a Panchayat as Rs. 1,000 the grant by the Government will come to not less than a lakh and fifty-thousand rupees a year. What the amendment proposes is that, if the Panchayats send their budgets, the whole expenditure should be defrayed by Government, and that the villages which have not got the Panchayats and which have other items of expenditure should be practically starved. The result will be that it will be the general taxpayer that will be affected by spending money on a particular village, to the satisfaction of the people of that village. In order that every Village Panchayat may begin the work and administer the fund properly and also have the necessary incentive, it is proposed that the Government should incur two-thirds of the expenditure to start with for five years and thereafter with a statutory obligation to defray one-half of such expenditure. That I think is sufficiently fair for the acceptance of Government. Any further expenditure will necessarily tell upon the

LIBRARY ARCHIVES Kerala Legislative Assembly

rest of the tax-payers because other villagers may not get anyting at all. Hence I say that the amendment is objectionable, that it will prejudicially affect the general tax-payer, and that it will not afford sufficient incentive to the Panchayat to administer properly.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): What is the principle upon which you grant one-half to the village Panchayat while other villagers are not given anything at all?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): So that there may be incentive for the Panchayat to collect the other half. The Government are prepared to help to a certain extent those bodies which are prepared to help themselves, just as the Government give grant in other instances. In other words, if the Village Panchayat collects a certain amount, the Government also will give some definite amount in order to afford the necessary incentive to the village to collect money for the administration of the Village Panchayat. Otherwise, there will be no incentive for the Panchayat to collect money. To say that the Government should pay all the money and the Panchayat should run the show is not desirable from the standpoint of local self-government.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): At least, so far the general taxpayer is concerned, is not 50 per cent. of the money paid to the Village Panchayat by Government an injustice?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No; Government may say: 'If you have a complaint you had better have a Village Panchayat; Government are prepared to pay one-half.' As it is, if you give the whole amount the other villagers will naturally ask: 'Why not give us the same amount without constituting a Village Panchayat,' and it may not be possible for any Government, however willing it may be, to satisfy the wishes of all the villages in the State. So far as rural sanitation and all other things go, of course, Government are under obligation to attend to certain matters but it will not be possible for them to do all that is wanted. Therefore when the Panchayats take up the work entrusted to them Government subsidises them and ask them to find some money by way of taxes.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know whether the Government will also be prepared for some time at least to contribute to the villages the whole sum they are now spending towards sanitation and public health?

PRESIDENT: That does not arise here.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I am afraid it arises here. According to Mr. Subba Aiyar himself the general tax-payer suffers under the arrangement. May I ask whether it is not out of the tax-payer's money that the Sanitary Department is maintained, whether and that money cannot be contributed to the Village Panchayat?

PRESIDENT: That is for the State as a whole.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Rao Bahadur K. A. Krishna Aiyangar.]

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): There the Government are at liberty to distribute the money in as fair a manner as possible. Here, the Government will be under a statutory obligation to pay the whole amount of the budget to a Panchayat to the prejudice of other villages. As it is, if the Panchayats say 'We have a budget, and the Government must meet the whole expenditure,' that is unfair to the Government and the general tax-payer.

THE REV. FR. KURIAKOSE VETTIKAPALLI (*Todupuzha* cum *Kunnatnad*): May I know how the old T. I. C's. managed their business in the initial stages of their existence?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): They were given a grant of Rs. 1,000 I believe. I do not remember exactly what it was.

THE REV. FR. KURIAKOSE VETTIKAPALLI (*Todupuzha* cum *Kunnatnad*): Was there taxation then?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes.

THE REV. FR. KURIAKOSE VETTIKAPALLI (*Todupuzha* cum *Kunnatnad*): Taxation from the beginning?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not know whether in the case of local institutions we should institute them in the way in which all other similar institutions were started.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): I beg to oppose the amendment. Reference was made to the Municipalities. I was really very anxious that these Village Panchayats should be started on a very much better footing than the Municipalities. Beyond the moral obligation to contribute to the funds of the Municipality the Municipal Regulation does not throw any statutory duty on the Government to contribute to the funds of the Municipal Councils in the State, and the result of it is that Municipalities which originally started with a grant of Rs. 5,000 to 7,000 Rs. were ultimately told: "Find your money, please; there is no part of the general revenues of the State available for your purpose. If you want to increase local amenities, pay for them, raise the money and run the show as best as you can. If it is a case of special grant, come to the Government." That is the history of municipal progress in the State. Those who have been looking into the budget for some years past would find a steady reduction of the Government's general maintenance grant to most of the major Municipalities until, eventually, except the town of Trivandrum, all the other major Municipalities are deprived of their general maintenance grant and they are thrown on their own resources.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): May I know when it was?

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): It is a matter of recent history. I would rather

LIBRARY ARCHIVES Kerala Legislative Assembly

be satisfied with a statutory grant of two-third than start it with an offer of general support and not a statutory assurance that Government will continue to defray the expenses of the Panchayat. That is not a desirable thing to choose because there is no obligation on the party of Government to find money, and it is left to the choice of the executive. This provision cannot be altered except with the consent of the Council. The Government are bound to contribute to the revenues of the Village Panchayat. I have all along been under the impression that the success of local institutions depends to a very large extent upon the financial grounding they have either at the outset or in the course of their progress. Many Municipal Institutions fare very badly because many of them are thrown on their own resources, Government making some advance at the outset and eventually withdrawing the same on financial grounds, saying that the requirements of the State as a whole should be the first charge on the general revenues and that local requirements should be met by local taxation.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know whether the demands on Municipal Councils under the Municipal Regulation are similar or parallel to the obligations laid on the Village Panchayat under the Bill?

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): So far as most of the duties, obligatory and discretionary, are concerned, they are identical with those in the Municipal Regulation. Street sweeping is one of the obligatory duties thrown on the Village Panchayat. It is also one of the obligatory duties thrown on Municipal Councils. The provision for burning and burial grounds is also identical. I do not think there is much difference between the Municipal Regulation and this Bill so far as this kind of work is concerned.

MR. JOSEPH PANJIKARAN (*Shertallai*): May I know whether it was intended eventually to withdraw the support of the Government?

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): My own impression is that, if these institutions are started with the statutory grant of one-half, many of them would be able to show a better outturn of work. I honestly feel so; at the same time I am prepared to say that it would be unfair for local bodies to call upon the Government to defray the major portion of the expenditure without contributing to the funds of the local establishments. Sir, the whole question was investigated sometime ago by a very representative committee with a majority of non-official gentlemen in Madras, *i.e.*, as to the policy that should be pursued in the matter of financial relations between the Provincial Governments and these local bodies. And if my memory does not play me false, the conclusion reached was that the Government should be prepared to contribute as much as the inhabitants are prepared to raise locally; that is to say, to the extent of the willingness of the local body to tax itself, to that extent the Government also should be prepared to make contribution. There is another

LIBRARY ARCHIVES Kerala Legislative Assembly

[Rao Bahadur K. A. Krishna Aiyangar.]

necessity for throwing on these Village Panchayats the burden of taxing themselves. Right from the start, if a sense of responsibility to their electorates is to be developed and if the electorates are to take real interest, it must be in virtue of the fact that the pockets of the electors will be touched; and therefore they have an interest in seeing that their City fathers or Village fathers run the show in the best interests of the village. If people in a particular locality are not called upon to contribute to the upkeep of the local institutions, if the whole burden is to be thrown on the general revenues, there is not much virtue in asking for these local bodies at all. But in the case of a small body like the Village Panchayat whose resources are not comparatively as satisfactory as in the case of urban institutions, it is certainly desirable that they should be treated with greater consideration, and accorded greater financial support by the Government right from the start in order that the success of the experiment may not be imperilled. As I submitted when this Bill was introduced, I do believe that this piece of legislation has got immense potentialities for good.

These villages were being neglected practically by the Central Government and all available funds at the disposal of the Government were utilised for improving the amenities in urban areas. That is what I feel. As a sort of compensation as it were to these villages which were neglected in the past the Government undertake to contribute to these Panchayats. It is said that Government should not be allowed to divest itself of these duties. When the Bill was introduced into the Council it did not contain any statutory obligation that Government should contribute. It was left to the exigencies of the general revenues of the State and the inclination of Government as to whether they will finance these local institutions or not. But the Select Committee which considered the Bill was of opinion that one of the conditions of success of these institutions was that Government should undertake the obligation to contribute not less than two-thirds. There may be village institutions which, from the nature of the situation of the inhabitants, may not be in a position to raise any money. In a village institution consisting of a large number of people of the depressed classes in a rural area, where there is nothing in the shape of financial activities to help them, it is certainly open to the Government to contribute the whole of it. That power has not been taken away by the Select Committee. But the least the Government should do is to contribute not less than two-thirds for a certain number of years. There is nothing to prevent Government, even after the expiry of the term of five years, to contribute the entire expenses of the village. Those who are called upon to work a Panchayat must know exactly how they stand before they interest themselves in the movement. To my mind, Sir, as a matter of general principle, in order that people might claim some sort of proprietorship, as it were over, their Panchayat, they should contribute some portion of the expenditure in one form or another. No doubt, the resources at the disposal of the general tax-payer are greatly strained.

LIBRARY ARCHIVES Kerala Legislative Assembly

But there is no helping it. A progressive administration does demand a certain amount of willingness on the part of the people to contribute to the resources of the State even though they might get only in a modified measure amenities which people are having in urban areas. I therefore regret that I have to oppose the amendment of Mr. Nidiry.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : Sir, I also oppose the amendment of Mr Nidiry. My reasons are partly identical with those advanced by Mr. Krishna Aiyangar. But there are other reasons as well. Mr. Krishna Aiyangar puts the necessity for the present clause in the Bill, on the ground that the general tax-payer's money cannot be spent upon the requirements of the Panchayat. But when we realise that there will be Panchayats in all villages, at any rate, in most villages, and when we remember also that the Municipalities were given a liberal grant at the beginning and that the people can live only in two sets of places, villages or towns, the question of the general tax-payer being compelled to contribute does not arise (*hear, hear*) because all Panchayats are given money requisite for keeping them in a proper way.

My view is that this Clause is necessary because, if it is not retained, the Government and this Council will, at the time of the budget, be put to very serious difficulties. Panchayat A may ask for Rs. 1,000 and Panchayat B may ask for Rs. 25,000 and there may be another Panchayat asking for a lakh of rupees, because in that Panchayat the members may have conceived new and important schemes for the uplift of the people. When we are to consider the budget and when we are asked to differentiate between the various Panchayats, that will be a spectacle which would not encourage us. It will be very difficult because, when there is the Government which, in its paternal solicitude to the welfare of the people, is prepared to contribute all the money that they want, the springs of self-reliance will dry themselves. Here, on the other hand, the Government say that like Heaven they will help those who help themselves. If every Panchayat is prepared to raise any amount of money, Government say, "Try to raise as much money as you can and we would rather contribute a good portion of that amount." It is a most salutary rule. Otherwise the work of the Government will come to an *impasse* and all the non-official members sitting here at the time of the budget will find it extremely difficult to adjudicate the various claims of the Panchayats.

The question of taxation is no doubt connected with this particular amendment. The Municipality may have to impose taxes. There is the Village Panchayat, which according to Clause 43, may levy rates and taxes. There are other means of income. All these incomes may be large or small. But, on the general question of taxation, I observed when the Bill was introduced and when the general principle was discussed, that 'it was wrong to impose a multiplicity of rates and taxes.' I stated that, by levying a new land cess, we are trying to add to the hardship of the poor people. I hold that idea even now. I utilised that argument to show that this Council should not accept the Bill and that

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. T. K. Velu Pillai.]

that principle should not be affirmed. That argument, Sir, had no force and the Council has committed itself deliberately, and perhaps wisely, to the view that the Panchayat Bill should become law. Once we have accepted that position and put ourselves in that situation, is it in keeping with the self-respect of either this Council or the body of Panchayatdars that are going to be created, that we should ask them to claim that, for everything, cash should be contributed by the Central Government? If the Central Government is prepared to devote all money for the development of these villages, none of these Panchayats should be created, I observed, Sir, at the time of the general discussion of the principles of the Bill that it was one of the objects of the Government when people complained, to say: "Look here, we are not going to divert any money for you. There is the Panchayat. Go and make your complaints there." We are now passing Clause after Clause of the Bill. To come forward and say that, for some years, Government should contribute every cash required by the Panchayat is a proposition which I cannot for one moment accept in any form. Mr. Krishna Aiyangar said that the Government had promised to make a contribution in order to compensate for their neglect of the villages in the past. No doubt, Sir, Government have been guilty of this. They have not been able to get work out of their District Officers. Officers have been receiving their salaries and going about. But the vital problems of village administration were not handed to these officers, who contented themselves with their routine work. We find a District Magistrate delegating his powers more often to a First Class Magistrate. Government are certainly to be blamed in this matter as they have delegated their powers to their officers. However, I do think that in compensating, the present object of Government is actuated by a nobler purpose. Sir, there is so much talk of local self-government and the Government and people know it. The subject of local government has been receiving the attention of the Government of India for the last thirty or forty years, *i. e.*, from the times of Lord Ripon. Lord Ripon thought that, though mistakes might be made in the initial stages, it would be of benefit to the people if local institutions were started and developed. I think it is in conformity with that policy that the Government are creating these Panchayats. The Panchayats should not be given authority to tax people as they like. In that case the subjects of His Highness the Maha Raja will suffer.

PRESIDENT: We are not dealing with that Section now.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): There will be various difficulties. I am utilising this fact for another purpose. We must not allow people to levy such rates and taxes as they desire and a Panchayat is not likely to impose a multiplicity of rates and taxes. The reason is that there is very much of representation in it. If a tax is levied in a wrong manner, there will be the whole body of the village people who will stand up and say: "Do not do that". Taxation by a Panchayat is different from taxation by Government

LIBRARY ARCHIVES Kerala Legislative Assembly

Government may probably not be able to know the causes from which the people are suffering, but the Panchayat would be able to go into the feelings of the people who may be enormously hit. Therefore I think we should be doing an injustice to these Panchayats if we entertain for one moment these doubts. Of course, I am making these statements on the assurance given by the various members of this House, that the Panchayats will be composed of very respectable and honourable people who have self-interest and altruism, that they will certainly not entertain the idea of taking more than—

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*) : According to the Bill the Panchayat has not got power but only the Government.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Yes. On the recommendation of the Panchayat, a tax may be levied. I think Government will never sanction the levy of rates or taxes if the Panchayat is wrong in imposing the same. Government have no authority to levy tax and it would not be right and decent to take away from the poor people about 85 per cent. of their earning. There is this bulwark against this arbitrary power. Sir, if we want to make this a really useful institution, if we want to teach self-reliance and self-help and at the same time the affairs of the villages have to be conducted in proper fashion, the Central Government cannot afford to give everything that these people want. After being told that Government cannot give everything that they want but what they give will be in the nature of a kind of spoon-feeding, I trust that there will be no Panchayats which may come forward and say: "Give us all that we want."

There are other provisions of this Bill which may come in for discussion, but they do not arise under the present Clause. I would therefore submit that convenience, expediency and justice require that these Panchayats which are created for the purpose of local self-government and to give an opportunity for the people to look after their own interests should not depend upon Government for doles and that they must find means by helping themselves. It is only when some money is absolutely required that they will think of imposing any rate or cess, that they will be moving the Government and the Government will have to sanction the same. There is a difference between general and local taxation.

PRESIDENT : We are not dealing with that question now.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I am not dealing with that question now. Local taxation is different from general taxation, because by local taxation the amount that is absolutely required for carrying out the work will alone be collected from the people, and a particular portion will be contributed by Government. I am sure that the Panchayat will only utilise that power in a moderate fashion and will take out from the people only what is absolutely required for carrying out its duties. Therefore, all these considerations induce me to observe that the retention of the present Clause is absolutely necessary.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. K. C. Mammen Mappillai.]

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*) : Sir, nearly 90 per cent. of the people of the country are living in rural districts and it is an admitted fact that very little has been done or is being done for the amelioration of the condition of these rural people. Therefore any provision that will remove this reproach from the door of Government and that will in some way improve the condition of the rural classes ought to be welcomed with great delight. Even in more advanced countries the solution of the problems of the regeneration of the rural classes is considered to be one of the most urgent and pressing problems. In America, as I observed on a former occasion in this House, President Roosevelt thought that the greatest problem was the regeneration of the rural population. Now, this particular Bill, containing a promise of help for the people of the rural districts if they are prepared to help themselves to some extent, is certainly to be welcomed, for several reasons. I agree with the enunciation of the general principle that any help that the Government contribute towards the maintenance of these local bodies from the general revenue, should be accompanied by a condition that the people should put their hands into their own pockets and share the actual burden of finding money. I have had some experience of being a nominated member of a T. I. C. of the olden days when very little of local taxation was raised ; and my recollection of those days was that we had very little sense of responsibility. We thought that the T. I. C. was very nearly a Government Department and that we were nominated as a sort of honorary officials. We did what we considered useful and sat chatting for some time and came away after the business was over. Now I find, though I am not now a member of any Municipality, a great change in this respect. People realise their responsibilities, when they have to tax themselves to a certain extent and look after their needs as far as possible. Therefore, I gladly accord my consent to the proposition that the Government should contribute only a portion and that the people of the villages also should be required to contribute a portion for the promotion of the amenities of village life.

But there is one thing that I should emphasise, not as a matter of principle but as a matter of expediency. In the initial stages, I mean to say, for the first two or three years, if the Government would generously come forward and contribute the whole of the expenses for running the Panchayat, it would be giving a sort of incentive to the people for the starting and healthy working of these Panchayats. As it is, my fear is that very few villages would be prepared to come forward and start Panchayats, because the villagers are exceedingly poor. People who have had experience only of towns have no idea of the depth of poverty and degradation reigning in villages. Therefore, at least with the hope of training these people in taxing themselves for their own needs, I trust that the Government will find it possible and expedient to undertake to contribute the whole of the expenditure for running the Panchayats for the first few years. Once people get into the groove of it, even if afterwards Government should withdraw their contribution, gradually I do not think the people will go back, because they would

LIBRARY ARCHIVES Kerala Legislative Assembly

have experienced the benefits to be derived from Panchayats. Therefore, though not as a matter of principle, yet as a matter of expediency, I trust Government will find it possible to contribute the whole of the expenses of these panchayats at least for the first few years of their existence.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): Would he leave it to the discretion of Government to contribute the whole at the outset, or make it a statutory charge on the Government?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I do not insist that this should be made a statutory provision. I want a sort of moral assurance from Government. Knowing the condition of the country parts rather intimately, I think this generosity will be necessary. Otherwise, I am afraid, that, for some years to come, this piece of legislation may remain a deadletter. In principle, I agree with my friends in saying that the people also should be prepared to contribute a portion of the expenditure of these panchayats, along with Government.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): I have not much to say in addition to what I have already said. By way of reply I have only to make a few remarks. My friend Mr. Subba Aiyar said that if the whole contribution was to be paid by Government for the first three years as I suggested, it would be an injustice done to the general tax-payer. I fail to understand how it could be so, because, every village tax prayer is also a general tax payer. The village tax-payers come under the category of the general tax-payer and further we are not going to have the distribution confined to one particular taluk or to one particular division. We must make the distribution fairly and reasonably. If we do so I do not think there will be any injustice done to the general tax-payer.

Another argument brought forward by Mr. Krishna Aiyangar is that hitherto Government have been neglecting the requirements and improvement of rural areas at the expense of urban areas. Therefore, he says, that the villagers should be taxed to improve their condition. My submission is that it is a great injustice. That is adding injury to the insult done to the villager. For this very reason the entire expenses should be met by Government at least in the initial stages of the Panchayat. Mr. Krishna Aiyangar is only supporting my motion in another form.

Some of my friends seem to have misunderstood my position. I never wanted to lay down as a principle that these rural areas should be exempted from taxation for all time to come. My submission is that for the first two or three years we should not tax them and that we should wait and see how they work and whether they have any incentive for doing the kind of work contemplated by this Bill. My friend Mr. Mammen Mappillai said that it was by way of incentive to the people to start these Panchayats that for the first few years the whole expenditure should be contributed by the Government as was done in the case of

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. G. Parameswaran Pillai.]

all the T. I. C's when they are started. Under these circumstances, I think my friends more or less agree with me.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*) : Will Mr. Nidiry suggest the principle according to which the Government should *fairly* distribute the funds between the various Panchayats? How are they to fix the amount to be given to each Panchayat?

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*) : As fairly as possible. (*Laughter.*)

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : All that I have to say has been already said. The injustice that I referred to arises like this. If statutorily Government are under an obligation to find all the funds budgeted for the various Panchayats, there could only be a certain amount of money that could be allotted out of the general budget for these rural areas, and there would be very little left for villages where there are no Panchayats. I say it will work serious hardship in such villages. I have nothing more to say.

The amendment was put to vote and lost.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : I demand a poll.

A poll was taken with the following result :—

AYES—13.

1. Mr. Paul V. Deniel	8. Mr. J. John Nidiry
2. ,, A. Hoogewerf	9. ,, G. Parameswaran Pillai
3. ,, N. Kumaran	10. ,, K. Parameswaran Pillai
4. ,, T. Kumara Pillai	11. ,, L. R. Raja Raja Varma Koil Tampuran
5. ,, Tariatu Kunjitomman	12. ,, N. Ramakrishna Pillai
6. ,, V. Kunjukrishna Pillai	13. ,, C. Sankara Menon
7. The Rev. Fr. Kuriakose Vettikkapalli	

NOES—24.

1. Mrs. M. Ponnen Lukose	13. Mr. S. Parameswara Aiyar
2. Mr. A. J. Van Ross	14. ,, R. Krishna Pillai
3. ,, W. H. Pitt	15. ,, K. George
4. ,, K. V. Natesa Aiyar	16. ,, P. Parameswaran
5. ,, M. Raja Raja Varma	17. ,, T. K. Velu Pillai
6. ,, R Dhanukoti Pillai	18. ,, M. R. Madhava Variar
7. ,, I. C. Chacko	19. ,, M. N. Pillai
8. ,, K. Parameswaran Pillai	20. Rao Bahadur K. A. Krishna Aiyangar
9. ,, Rao Bahadur K. V. Rangaswami Aiyangar	21. ,, Mr. S. Krishna Ajyar
10. ,, Mr. S. C. H. Robinson	22. ,, T. Lakshmana Pillai
11. ,, J. Stephenson	23. ,, John Mackie
12. ,, V. Subba Aiyar	24. ,, T. M. Chidambaratanu Pillai

LIBRARY ARCHIVES Kerala Legislative Assembly

NEUTRALS—8.

1. Mr. Trivikramar Vasudevar	5. Mr. K. C. Mammen Mappillai
2. ,, K. Dominic Tomman	6. ,, P. K. Narayana Pillai
3. ,, P. T. Thomas	7. ,, N. Padmanabha Pillai
4. ,, S. Subrahmania Karayalar	8. ,, C. P. Kochukunju Pillai

The amendment was declared lost.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : I move that 'three-fourths' be substituted for 'two-thirds' in line 2, sub-clause (3).

The contribution that is fixed in the Bill is two-thirds of the budgeted expenditure officially sanctioned by the authorities for the first time, and afterwards one-half. Now, Sir, the principle of the motion has already been discussed in connection with the amendment of Mr. John Nidiry. I have only to point out one or two facts in relation to which there has been, in my opinion, some misconception and misunderstanding. It has been stated, and very broadly too, that local taxation is different from general taxation, that local self-government should be fostered, and that local bodies should help themselves before they can call for outside help. Such broad principles were freely talked of. There is one fundamental distinction which has been ignored by the advocates of these principles, *viz.*, that we here stand on a different footing in regard to the system of taxation from those from whom these principles have been evolved. In other words, when you say that local rates should be distinguished from general revenue and that local needs should be met from local taxation, you forget, for the moment, that local rates are mainly constituted in countries which have accepted these principles, out of land revenue. The revenue from the land is never credited to the Central Government. It goes to the locality concerned. Here, what is your Central Government revenue? The major portion of it is made up of land revenue.

PRESIDENT : I do not think it is the major portion of the Revenue.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : Land revenue comes to about Rs. 35 lakhs, and that is certainly an appreciable amount. Until recently it was perhaps the major portion of the revenue. It was the first item of revenue until a vicious system brought about the collapse, *viz.*, the abkari and the excise. (*Mr A. Hoogewerf: Hear, hear.*) Therefore, the most prominent item of receipts for Government was land revenue. Now, I say, if you adopt one principle, you should push it right through. Do not pause and consider and then leave it half-way. I am prepared to concede that local bodies should certainly depend upon local rates. The revenue from land is the most important item of local rates. The Central Government has no business, on principle, to touch the land revenue. If you are appropriating the local revenue for purposes of the Central Government, see that a fair proportion of that land revenue is allotted or given back to the localities

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. G. Parameswaran Pillai.]

concerned. Where are we to get the fund necessary for these Panchayats unless it be from the land cess? The main source for the fund so far as the villages are concerned is the land revenue. Who is he in this country, apart from the villager, that may be called the general tax-payer? Therefore, the theory of the general tax-payer brought forward by my friend Mr. Velu Pillai is no argument in our country. If, therefore, you want the local bodies to depend upon local rates, unless you want the villagers to impose additional taxes upon the village lands, which form the main source of their revenue, how is it possible? If you say that you will take all the land revenue, which should legitimately be spent for the improvement of the villages, for purposes other than the improvement of rural parts, and at the same time ask the villagers to mind their own business and to find funds for their own legitimate needs, how are the villagers to manage? That, I think, is the sort of argument brought forward by Mr. Subba Aiyar and others. I have absolutely no quarrel with any sound principle that you want to adopt; but adhere to the principle always. Be fair. Do not make use of the principle whenever it serves your purpose. In our case, in fairness, the Central Government ought to surrender a decent portion of the land revenue, which is the legitimate source of local taxation, for the use of the villages. There is no fairness or justice in your asking the village bodies to tax themselves hereafter by way of additional land cess. It may be said that they have other means of taxation, such as fees for licenses, etc. That I do not think would be of any substantial benefit to them, unlike the Municipal bodies. The village bodies cannot have even the house tax which we have in Municipalities. As the members are aware, even in the Municipalities house tax cannot be said to be a source of appreciable income. Therefore, if the villagers are asked to raise money otherwise than from their lands, they will have to tax their dogs or cattle. That is the only other source of income, if it can be called a legitimate source of income. Probably, a few annas may be collected by way of fines imposed for offences of theft or mischief committed within the village limits. There is also the small income from the Panchayat Courts. Therefore, I submit, that the chief source of revenue for the villagers is their land, and as regards these landholders they are already being heavily taxed, and the Central Government is misappropriating, (not in the bad sense) is wrongly appropriating what is legitimately due to the local bodies. So my only appeal to this House is that, if we adopt a principle, we should push it right through and be fair in adhering to that principle. Justice demands, therefore, that a decent proportion of land revenue and abkari revenue should be given to the local bodies.

My friend Mr. Subba Aiyar said there might be two hundred Panchayats. I am not afraid of that figure, and my friend said that Rs. 1,000 might be given to each and that the total would come to two lakhs of rupees. From the ayacut revenue alone Government get 35 lakhs of rupees, not minding the abkari revenue which comes to 25 lakhs. I wish it will go down and I do not want to rest this upon the abkari revenue.

LIBRARY ARCHIVES Kerala Legislative Assembly

PRESIDENT: What about the share of the Devaswoms which comes to 16 lakhs?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Yes, I am aware of it. Even then I would say that the entire Devaswom revenue may be taken from these 35 lakhs and yet you have got a very good proportion remaining.

PRESIDENT: Do you mean to say that it is not being spent for the benefit of the people at large?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I mean it works out to nearly 20 lakhs. I should say that at least 5 lakhs will be a poor contribution towards the Panchayats. It must be possible, and should be possible, for the Central Government to contribute at least 5 lakhs out of a total revenue of 200 lakhs towards the Panchayats for some time to come which at any rate will be sufficient to keep the Panchayats going on until they realise their responsibility better and until they feel that they can stand upon their own legs and work themselves creditably to the country in general and to themselves in particular. My amendment therefore recognises the fact that they are also liable to tax themselves. But at the same time in view of the fact that similar bodies elsewhere have been working very badly on account of the low financial situation in which they were placed and in view of also the fact that it may not be possible for the general tax-payer who is also the villager to encumber himself further upon his land, it is very essential that he should be relieved by Government to an appreciable extent, at least for some years to come, when perhaps it may be possible for Government or this House to revise the proportion. After all it is not much that may be required at the initial stages and it is only fair. They are all new institutions. When you create these bodies you should give them ample opportunities of becoming a success. It is, therefore, very essential that this amendment should be accepted, and I would draw the earnest attention of this House to it. This House unfortunately for us represents mostly the rural interests. I mean, we have got 22 members who represent the rural constituencies and I am sure that this House will safeguard the interests of the rural constituencies amply by according their support to this amendment which is fair both to the Government and to the local bodies themselves.

PRESIDENT: What about your amendment as regards substituting ten years for five years?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): According to the Bill a half is intended to be contributed by Government for five years. I would say that three-fourths should be contributed for ten years.

MR. C. SANKARA MENON (*Quilon*): I second the amendment.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, Mr. Paramesvaran Pillai has been arguing from the general theory of taxation, as to whether land revenue should go to the Central Government or should go to the local bodies. I must confess that I am not an

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

expert in that matter and therefore I am not prepared to be drawn into that discussion. But I can assure him at any rate that the principle followed here is the same as the principle followed everywhere in India and the land revenue always goes to the Central Government.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I wish to say a word of personal explanation. I never mentioned India. The principle itself did not emanate first from India. I based it upon what took place in England from where it was borrowed and followed in India.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am mentioning India as being nearer and closer.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I just ask Mr. Subba Aiyar whether he is aware that the local bodies in British India have proved to be a failure?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am not aware of that. But I can say that the object is that the budget is for about two crores of rupees of expenditure and the budget is generally passed by this House. If my friend and those who think with him will be in a position to devise means whereby the increasing expenditure of a progressive administration may be met, certainly the Government, I believe, will not be very particular to have the land revenue.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I just ask Mr. Subba Aiyar whether the welfare of the rural classes is not an item of a progressive administration?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Certainly, that is just the reason for this Bill. So, what I say is, if means are devised whereby we can raise two crores of rupees.—

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): I wish to ask Mr. Subba Aiyar whether this Council is competent to do that.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not say that. Whenever a Bill is passed, the House has to do that.

PRESIDENT: The House can suggest it when the general discussion on the budget takes place.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If means are suggested they will be taken into account and a new one may be substituted for the existing one. Further, it cannot be denied that the general tax-payer will also have to tax himself so far as local self-government is concerned. I do not think there can be any local self-government without the individuals concerned paying to the general revenue and also for local expenses. I therefore beg to state that the theory upon which he is arguing does not quite apply so far as we are concerned.

What I have to say is that it was thought that the Government should contribute exactly an amount equal to what the villagers themselves are in a position to raise. But in order that at the beginning

LIBRARY ARCHIVES Kerala Legislative Assembly

there may be a greater incentive to start the institution it was raised to two-thirds and after five years to a half. I believe that not less than two-thirds is enough and I do not think it is possible to go beyond that. As for five years being changed into ten, I believe there is equally a strong objection, because it is not possible for us to commit the Government to go into that expenditure for the next ten years to come and I do not think that the Government should go to that extent of helping these local bodies. I therefore oppose both the amendments.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): I wish to add a few words on the general questions involved. I do not propose to go into them at all as I have nothing useful to add by way of suggestion. It is necessary to draw the attention of the House to one important item of expenditure, that is, primary education in the rural areas of the State. This covers a large portion of the budgeted expenditure of the State under the head of education. I believe something like 15 lakhs of rupees is being spent.

MR. J. STEPHENSON (*Ag. Director of Public Instruction*): 12 lakhs.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): My friend Mr. Paramesvaran Pillai cannot say that the rural areas have been absolutely neglected in this respect. When I said that rural areas were neglected what I meant was that they were neglected in the matter of sanitation. That was the point that I had in view. Local areas had their village police control, their civil and criminal courts, the Police looking after the person and property. The one respect in which they did not receive adequate attention was in the matter of village communications and in the matter of village sanitation. I am putting my finger on two important defects as regards rural areas. So, it would not be correct to say that they were absolutely neglected. When I myself said that they were neglected I was thinking of the neglect in the matter of sanitation and communication. Only one word more, Sir, I would submit. The amendment of Mr. Nidiry, that was thrown out will not be so heavy from the standpoint of Government as the amendment of Mr. Paramesvaran Pillai. Mr. Nidiry's proposition was for the three first years the whole of the expenditure, three-fourths for the next three years and after six years one-half. But Mr. Paramesvaran Pillai's amendment is for contributing three-fourths for ten years and one-half at the end of that period. As a rule of arithmetic it seems to me that the proposition thrown out will not from the standpoint of Government be so burdensome as the present amendment. So, consistent with the rejection of the earlier amendment, this amendment also has to go.

MR. A. HOOGEWERF (*Nominated*): I beg to support Mr. G. Paramesvaran Pillai's amendment. I think he has made out a very strong case for the rural areas. He has proved to the hilt that the general tax-payer is the rural area man also, and that he would have to pay a double tax. No further taxation should be imposed upon these rural areas. These are matters that should be given serious consideration. Mr. Mammen Mappillai said how very poor these rural areas were

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. T. Kumara Pillai.]

and if the Panchayat scheme is to prove a success I think we should give them all sorts of help. We should not stifle it in its very inception. I therefore, have great pleasure in supporting the amendment of Mr. G. Parameswaran Pillai.

THE REV. FR. KURIAKOSE VETTIKKAPALLI (*Todupuhza* cum *Kunnatnad*) : I beg to support the motion also. Sir, self-government is certainly something very attractive; but, however attractive and wholesome a measure may be, the villagers will not be prepared to receive it gladly if they know there is a heavy burden of taxation attached to it. So I think that at least in the beginning it would be proper to make that burden as light as possible. Now the principle has been accepted that they should be taxed. So I say that, if they are to be taxed, they should be taxed at least in the beginning as little as possible. So I support the motion of Mr. Parameswaran Pillai.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*) : In supporting the motion I shall read two sentences, because Mr. Subba Aiyar said that we must profit by the experience in India as a whole in this matter. I am reading from the Administration Reports:

"In Coorg, the income of District Boards is extremely exiguous, and it is impossible for them to carry out any measure of importance without help from imperial funds. (*Vide Administration Report for 1920.*) In Mysore, the number of persons charged before the Bench Magistrates in 1921-22 was 44,707, but the number convicted was 7,827. In the State of Baroda 'the Village Boards that were invested with civil and criminal powers have not done satisfactory work. The Government sanctioned a lakh of rupees for medical relief and village sanitation. This sum was to be spent as a subvention to Panchayats contributing local help. But people do not take advantage of it. Some of the *Visishta* Panchayats are invested with Judicial powers which were not utilised with advantage. The Panchayats in the Madras Presidency have thus far not been very satisfactory".

Therefore, I think, Sir, that the proportion fixed by Mr. Parameswaran Pillai is very fair and has to be accepted.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): What is the percentage of literacy in Baroda?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): It has nothing to do with the amount of money available.

MR. T. KUMARA PILLAI (*Eraniel* cum *Vilavankod*) :

മിസ്റ്റർ പരമേശ്വരൻപിള്ള മഹാരാക്കീട്ടുള്ള ഭേദഗതിയിൽ ഞാൻ സന്തോഷത്തോടുകൂടി അനുകൂലിക്കുന്നു. രാജ്യത്തിന്റെ പൊതുമതലിൽ നിന്നും ഗ്രാമാടുകളിലെ ജനങ്ങൾക്കു വേണ്ടപോലെ ധനം ചില വാക്കിവരുന്നില്ലെന്ന് ഈ വശത്തുള്ള മെംബറന്മാർ സമ്മതിക്കുന്നു. മി. സുബ്ബയ്യരും അനുകൂലിക്കുന്നു. വില്ലേജ് പഞ്ചായത്തുകളെ ഇപ്പോൾ നിബന്ധമായതിനെ നടത്താൻ മുതലപ്പെടുത്തീട്ടുള്ളത് ശുചീകരണവും ജനങ്ങളുടെ ആരോഗ്യരക്ഷയുമാണ്. എത്രയോ പ്രധാനമായ ഈ സംഗതികൾ ഇപ്പോൾ എങ്ങിനെ നടന്നുവരുന്നു എന്നും അതിനാൽ

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ഉൾനാട്ടിലെ ജനങ്ങൾ എത്രത്തോളം സങ്കടങ്ങൾ അനുഭവിച്ചു വരുന്നു എന്നും ദുഷ്പ്രഭുക്കന്മാരെക്കൊണ്ടു തെളിയിക്കാൻ പ്രയാസമില്ലാത്തതാണ്. തെക്കൻതിരുവിതാംകൂറിൽ പലേസ്ഥലങ്ങളിലും ഇപ്പോൾ വിഷൂചിക ദീനമുണ്ട്. ഈ സാംക്രമികരോഗം അത്യുഗ്രമായി കൂടിച്ചുതുടങ്ങി. അവിടെ ഒരു മെഡിക്കലാഫീസറെ അയയ്ക്കാൻ വേണ്ടഏഴുത്തുകുത്തുകൾ നടത്തി. ആൾ സ്ഥലത്തെത്തുന്നതിനു മുമ്പ് അവിടെ പലേ മരണങ്ങളും ഉണ്ടായിക്കഴിഞ്ഞു. ആ സുഖക്കേടു സമീപസ്ഥലങ്ങളിൽ വ്യാപിച്ചു. ഇരണിയൽ ടൌണിനകത്തു ഞാൻ ഇങ്ങോട്ടു പുറപ്പെടുന്നതിനു മുമ്പു് എട്ടുപേർ മരിച്ചിട്ടുണ്ടെന്നു് എനിക്കു സൂക്ഷ്മമായി അറിയാം. വിഷൂചിക ഇപ്പോൾ പല സ്ഥലങ്ങളിലും വ്യാപിച്ചുകഴിഞ്ഞു. അതിലേക്കു നിയമിച്ചിട്ടുള്ള മെഡിക്കലാഫീസർ അനേകരാത്രം വിസ്താരമേറിയ സ്ഥലങ്ങളിൽ സൈക്കിളിൽ സഞ്ചരിക്കയും ചെയ്യുന്നു. എന്നാൽ രോഗികൾക്കു കൊടുക്കാൻ അദ്ദേഹത്തിന്റെ കൈയിൽ മരുന്നുകൾ ഇല്ല. സാനിട്ടറി കമ്മിഷണരും സിൽബിന്തികളും സ്ഥലത്തു എത്തി നോക്കുമ്പോൾ അവരുടെ കൈയിലും മരുന്നുകളില്ല. കുറെ ജെസ്പ്രിഡ് ആവശ്യപ്പെട്ടതിൽ അതുപോലും അവരുടെകൈയിൽ ഇല്ല. ഉൾനാട്ടിലെ ജനങ്ങളെപ്പറ്റിയുള്ള ഗവർൺമെൻറിന്റെ അനാസ്ഥയെ ഇങ്ങനെ അനുഭവിക്കുന്നതു്. കല്ലുളം താലൂക്കിൽ കുഴശേഖരം ആശുപത്രിയിൽ ഒരാണ്ടിൽ ഏകദേശം ൦൦൦ത്തിൽ പരം രോഗികളെ ചികിത്സിച്ചുവരുന്നു. അതുപോലെതന്നെ വിളവങ്കോട്ടു താലൂക്കിൽ അരുമന എന്നസ്ഥലത്തു് മൂന്നു് വർഷങ്ങൾക്കു മുമ്പിൽ ഏർപ്പെടുത്തിയതായ ആശുപത്രിയിൽ ഏകദേശം ൦൦൦ത്തിൽ പരം രോഗികളെ ചികിത്സിച്ചുവരുന്നു. ഈ സംഖ്യ ഇവിടെയുള്ള അനേകം ഡിസ്പെൻസ്സറി ആശുപത്രികളെ അപേക്ഷിച്ചു് എത്രയോ കൂടുതലാണു. ഇതുകൊണ്ടു ഉൾനാട്ടിലെ ജനങ്ങളുടെ ആരോഗ്യസ്ഥിതിയും ബോധ്യപ്പെടുന്നതാണ്. ഈ മാസം ആദ്യം നട്ടാലം മുതലായപ്രകൃതികളിൽ എനിക്കു സഞ്ചരിക്കാൻ ഇടയായി. ആ അവസരത്തിൽ എന്റെ കുടിയുണ്ടായിരുന്ന ഒരാളിനു മാറിച്ചിട്ടു കുടിക്കുന്നതിനു പച്ചവെള്ളം കിട്ടാൻ പലേ ശ്രമങ്ങളും ചെയ്യേണ്ടതായിവന്നു. നട്ടാലം മലയാളംമീഡിയർഗ്രേഡ് പള്ളിക്കൂടത്തിൽ കുട്ടികളുടെ ഉപയോഗത്തിനായി വെള്ളമുണ്ടായിരിക്കുമെന്നു കരുതി അവിടെ കയറിയപ്പോൾ അവിടത്തെ സ്ഥിതി വളരെ കഷ്ടമായിട്ടാണ് കണ്ടതു്. പള്ളിക്കൂടംകുട്ടികളുടെ ആവശ്യത്തിനായി ദൂരസ്ഥലങ്ങളിൽപോയി വെള്ളം കൊണ്ടുവരണം. അതു കണ്ടാൽ ആർക്കും ഉപയോഗിക്കാൻ തോന്നുന്നതല്ല. പഴയ ഇരണിയൽ താലൂക്കിലുള്ള പടിഞ്ഞാറൻ പ്രകൃതികളിൽ മിക്കവാറും സ്ഥല

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. T. K. Velú Pillai]

ങ്ങളിൽ കുടിക്കുന്നതിലേക്കുള്ള ശുദ്ധജലത്തിനു് അവടത്തെ ജനങ്ങൾ ഇങ്ങനെയുള്ള സങ്കടങ്ങൾ അനുഭവിച്ചുവരുന്നു. ഉൾനാട്ടിലുള്ള ജനങ്ങളുടെ ഇത്തരം സങ്കടങ്ങൾ ഗവർൺമെൻറിനോ പട്ടണവാസികൾക്കോ ടൌൺഹാളിലുള്ള സുഖസൌകര്യങ്ങൾ അനുഭവിച്ചുകൊണ്ടിരിക്കുന്നവർക്കോ അറിയാൻ തരമില്ലാത്തതാണു്. ഈ സ്ഥിതികളിൽ പലേവഴികളിലും ജനങ്ങളിൽ നിന്നും ശേഖരിച്ചുണ്ടാകുന്ന പൊതുമുതലിൽ നിന്നു് അവരുടെ ആരോഗ്യരക്ഷയ്ക്കുപോലും ചിലവാക്കാതിരുന്ന ഗവർൺമെൻറിൻെറ അമാന്തത്തെ പരിഗണിച്ചിട്ടെങ്കിലും മി: പരമേശ്വരൻപിള്ളയുടെഭേഗതിയിൽ പറയുന്നമാതിരി വില്ലേജ് പഞ്ചായത്തുകൾക്കു പത്തു വർഷത്തേക്കു് ഗവർൺമെൻറിൽനിന്നും നാലിൽ മൂന്നുഭാഗം ചിലവാക്കേണ്ടതു് ഏതുയോ ന്യായമായിട്ടുള്ളതാണെന്നു ഞാനും അഭിപ്രായപ്പെടുന്നു.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Sir, I am supporting Mr. G. Paramesvaran Pillai so far as he has gone, and I am sorry he has not gone further. During the discussion upon the previous motion, certain principles were enunciated, why the rural bodies to be created under this Regulation should tax themselves and why in course of time should tax themselves exclusively for their purposes. As an analogy, the experience of the Municipalities was pointed out by the learned Deputy President who said that at the commencement Government were more liberal in their contributions to the Municipalities, but as time went on Government were withdrawing slowly from their liability to contribute to the municipal funds.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): *Absolutely* withdrawing.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Yes, in some instances Government have even absolutely withdrawn from making any contribution whatsoever. The learned Deputy President also supported that policy of Government by observing that those who want the amenities of municipal life must pay for the same. And on the analogy of municipal bodies, he advocated a policy of autogenous taxation to be undertaken by the village bodies themselves. Sir, there is an amount of assumption in this proposition which cannot stand scrutiny. For, in the first instance, the contention that, when municipal taxes are raised, they are for the exclusive amenities of the inhabitants of the municipalities is an unfounded assumption. I have listened to a very interesting lecture by a professor of history and economics on this subject, in which he instanced the Municipal organisations in various centres, including the western countries, and raised the question whether after all there is no duty whatever cast upon the State to support Municipal organisations. He said that Governments should contribute decently towards municipal funds, and he contended in that connection that, in spite of the fact that the municipal organisation

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is the body that concerns itself with the management of municipalities, the benefits arising out of such organisation are not exclusively enjoyed by the municipal tax payers, but are thrown open to all citizens of the State and even to foreigners who visit the area in question. Such being the case, though a particular municipality levies the tax, and spends it in municipal areas, really the fruits are open to the whole population of the State. At any rate there is nothing to prevent a stranger from taking advantage of the benefits afforded by the Municipal administration of any particular area. So, all the rest of the population who may not be in the municipal areas are at liberty to enjoy the fruits of the municipal administration and at the same time go scot free in the matter of contributing towards the maintenance of the Municipal Council. The analogy evidently has been extended by my friend to rural bodies contemplated under this Section. I am raising the question for the consideration of Government whether when you start a rural body under this Regulation and ask them to tax themselves for their amenities as my friend put it, such amenities are open not only to the village bodies in question, but also to all those who are bent upon taking advantage of those amenities. For example, the village bodies may take to lighting the streets and other persons who do not belong to the village and who go through the streets also enjoy the lights. The lights cannot be shut out from them. Though people outside the village are allowed to enjoy such amenities, you are asking the village body concerned to tax themselves exclusively for the lighting of the streets. That is the question. First of all, I am submitting, in respect of the employment of the word "amenities"—

PRESIDENT: What is the extent to which these amenities are shared by the general public?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): They are at liberty to share it to any extent. You are not able to know to what extent they share it. For example I may not be a pedestrian, I may not be walking along the roads as much as another person? How are we to weigh the amount of use that each of us makes of the roads. It is not capable of being weighed in a delicate scale. The roads are thrown open to all alike. Such being the case, the statement that the amenities are open only to the villagers is an unwarranted assumption, though, of course, the villagers are not excluded from them. But the benefits of the village are open to the whole State. Therefore, I am submitting, the responsibilities of the State to contribute to such village bodies or municipalities are very clear. Apart from that question, I would place before the House another aspect of the matter. The optional and the obligatory functions that we have now provided under this particular Regulation to be carried on by a village body to be organised under this Regulation are all works to be undertaken by a civilised Government or a Government with pretensions to civilisation. Such being the case, when the question of the general tax-payer's purse was brought up

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

before the House, some of my friends were emphatic in saying that the said general tax-payer was not concerned in these rural organisations and thereby introduced new matter to be controverted. It is to be devoted exclusively for lofty objects and not for the relief or alleviation of distress in municipal areas. I can understand, Sir, that, first of all, things common to all the population of Travancore must be first attended to, for example, the defence of Travancore. In those cases, the general revenues must be taken as primarily charged. But, to say that the relief of distress, the opening up of communications, providing sanitation and primary education, improvement of the staple industries of the State, improvement of agriculture—that these things should be left to those persons who want it and that the general State revenue is not liable for such concerns—is a contention that cannot be listened to coolly. In this respect, may I also bring to the notice of the House a statement of the learned Deputy President himself? He first submitted to the House that the village parts were in a neglected condition, and he subsequently modified it by saying that the neglect was in respect of rural sanitation and education. Who is responsible for this neglect? How are the villagers responsible for this neglect? Do not they stand in need of reparation for the neglect all along shown to them? Who was enjoying the iniquitous distribution of the State revenue? Is it not righteous to call upon that body to make amends before special taxation is imposed upon the villagers? Therefore, the party that was enjoying the iniquitous distribution of the State revenue is the party to bear the burden for the relief of the villagers. Instead of that, in spite of the long neglected condition of the village areas, we are attempting to give the cold shoulder to the villages and asking them to get along as best as they can. When they are setting up a persistent demand in the matter of sanitation and primary education, the Government come forward with a Bill to facilitate the granting of their demands and at the same time tell them: "Look here! we are ready with a Bill for your relief. But please see that almost every pie of it comes from your pocket!" If this sort of answer had ever been foreseen by them, probably they might never have agitated for this. When such is the condition, I would very strongly support the motion before the House. Be the principles what they may, here is the village man who is entitled to relief at the hands of the Government. When that is the condition, my friends say that principles are standing in the way of relief being granted. You are invoking principles without understanding facts and circumstances. When facts are particularly clear, and principles have no application, it is pure doctrinairism to speak of principles in the abstract. Look to the circumstances. I am sorry, therefore, that Mr. G. Parameswaran Pillai restricted it to three-fourths instead of demanding it wholly.

MR. JOSEPH PANJIKARAN (*Shertallai*): May I ask him whether that was not the proposition moved by Mr. Nidiry?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Quite so.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I suppose he opposed it then.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I opposed it in the fancy of trusting the Government. Heretofore I trusted the Government in whom considerable trust has been reposed by my brethren on this side. From the utterances subsequently listened to by me I thought that they were not willing to trust the Government. Hence I support Mr. Paramesvaran Pillai's amendment now. Further, the experience of municipal bodies in Travancore is clear to the effect that, except some rich municipalities like the Alleppey Municipality, the Kottayam Municipality—

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): No, we are poor.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): They are generally weighed down with the cares of taxation, so much so that they evince a desire to close down. Some of the Municipalities are seriously thinking themselves of winding up in order to escape taxation. The Haripad Municipality, if I remember right, was once reported to have reached the winding up stage. There are some other Municipalites too of this kind. If the same sytem of organisation is to be extended to the villages, first of all, we may meet with an amount of uproar, and my own fear is that the members to be elected to the Village Panchayat may probably find themselves in a sorry plight, especially when they proceed to tax the people. All these aspects must be taken into consideration by the very generous Government in considering the question of taxation. In these circumstances I have very great pleasure in supporting Mr. Paramesvaran Pillai's amendment and I feel sorry that he has not gone further.

MR. DOMINIC TOMMAN (*Peermade cum Devicolam*): Sir, I support Mr. Paramesvaran Pillai's amendment. To work the Panchayat in a satisfactory manner money has to be raised from the village. It may not be possible to raise any appreciable amount from the village by way of license fees, house-tax or professional tax as is done in Municipalities. Money has to be raised by a levy of land tax. Under the Royal Proclamation, I am afraid, the Government may not be at liberty to levy any additional taxation on land for thirty years from the last settlement. If that view is correct very little money will be forthcoming from the villagers for the management of the Village Panchayat. For this reason I support the amendment.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I have not very much to add by way of reply. I have only to point out one circumstance in answer to Mr. Subba Aiyar's contention. If the viewpoint of Government be not only to foster local self-government but at the same time to so distribute the taxation that the Government may well conserve their revenues for certain purposes without additional taxation by themselves, this can be done only by means of

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

local taxation, by asking local bodies to tax instead of Government taxing and adding to their resources. If Government want to make use of these local bodies to tax themselves and thus add to the resources of Government, if that be the aim, then I can very well understand the position of Government. But the view-point from which we the representatives of the people look at this Bill is entirely different. We feel that certain duties which Government ought to perform should be performed and they must continue to perform them. At the same time for the performance of such duties they should engage the local bodies who can better perform those duties. They should instal local bodies and ask them to perform it, so that local self-government in the true sense of the term might be fostered and at the same time the general welfare of the State assured. If by this measure Government intend that the State should be benefited as a whole I consider it absolutely essential that in regard to the financial chapter they should not conform to the provisions in respect of other bodies elsewhere. This Government should turn over a new leaf and see whether the institution which they now put forward will not be successful under altered circumstances. Sir, it need hardly be said that it is the financial difficulties that lead to disaster and failure of these local institutions, and if, say for a decade, Government come forward boldly and see that these local institutions are supported liberally, I am sure that this measure will be a very successful one and the whole country will be grateful to the originator of this measure. With these few words I strongly recommend this amendment for the acceptance of the House.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : I do not think Mr. Paramesvaran Pillai is very serious about the decades *viz.*, to change the period into ten instead of five years. I certainly think that he will not be a party making the Government commit themselves for such a long period, to because even after five years if any member of this House thinks that the three-fourths proportion should be continued it is open to him to bring an amendment to that effect. When once Government commit themselves, it may not be possible for them to back out.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : Is there not already a committal when you say that the Government are prepared to pay one-half of such expenditure after such period of five years?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : I thought the assurance of one-half was a definite advantage and that cannot be reduced without the consent of the House. Further as Mr. Krishna Aiyangar pointed out, Mr. Nidiry's amendment that not less than one-half of such expenditure should be given after such period of six years has been thrown out. Practically then this House has committed itself to the view that at the end of five years it should be one-half. Of course Mr. P. K. Narayana Pillai indulged in a bit of humour though at the risk of consistency.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Certainly I indulged in a bit of humour if my friend wants to view it so.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): He opposed Mr Nidiry and supported me.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Mr. Nidiry's amendment was not voted upon by parts.

PRESIDENT: But his speech referred to the whole.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): So far as it is concerned everything should be left to the discretion of Government. That was what he said. Mr. P. K. Narayana Pillai of course at the risk of consistency indulged in humour.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I was quite serious. I am prepared to assure him that I consider the matter as serious.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): So that the Bill as it is proposed fixes the minimum of two-thirds and as I said Government will be happy to see that as far as possible each Village Panchayat is put on a proper basis and should be in a working condition. They might probably grant a little more than two-thirds if necessary. So what I beg to ask is whether the House will be serious if it says that the Government commit themselves for a period longer than five years. Personally I have no objection to two-thirds being converted into three-fourths, since the difference is only 1/12. If Mr. Paramesvaran Pillai will accept three-fourths for five years we can safely get through it.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Personally I do not think it quite satisfactory. If that is the sense of the House I have no objection.

PRESIDENT: May I take it that the Clause is accepted with that modification?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes.

PRESIDENT: Then Clause 45, sub-clause 3, will run thus:

"Our Government shall contribute to the village fund an amount which shall not be less than three-fourths of the sanctioned budget expenditure for the year during the first five years after the constitution of the Panchayat and not less than one-half of such expenditure after such period of five years".

I take it that the House accepts it.

The amendment was carried.

The question is that Clause 45 as amended form part of the Bill.

The Clause as amended was added to the Bill.

Clause 46.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I beg to move that a Proviso be added to Clause 46, *viz.*, "Provided however that the rates so levied do not exceed the fees prescribed in the Court Fees Regulation for the time being in force".

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. C. Sankara Menon.]

Section 46 simply says that a Bench may levy fees for the institution of criminal cases except those under Section 379 of the Penal Code or under the Police Regulation at such rates as may be prescribed. They may levy fees beyond what the Court Fees Regulation fixes. That is objectionable and the proviso that the rate shall not exceed the fees prescribed in the Court Fees Regulation is absolutely essential. Otherwise it may vary. There will be no uniformity. Each body will have its own rate. There will be a lot of complaints and so on.

MR. N. PADMANABHA PILLAI (*Karunagapalli*): I second it.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I accept it.

PRESIDENT: So Clause 46 with the Proviso shall run thus:—

(1) "A Panchayat Court may levy fees for the institution of civil suits at the rates mentioned in Regulation I of 1090 or such other rates as may be prescribed.

(2) A Bench may levy fees for the institution of criminal cases, except those under Section 379 of the Penal Code or under the Police Regulation at such rates as may be prescribed.

Proviso. Provided however that the rates so levied do not exceed the fees prescribed in the Court Fees Regulation for the time being in force.

(3) No fee for the institutions of civil suits or criminal cases shall be levied under the Court Fees Regulation for the time being in force".

The question is that Clause 46 as amended form part of the Bill.

The Clause as amended was added to the Bill.

Clause 47.

MR. C. SANKARA MENON (*Quilon*): Sir, I beg to move the following:—

Delete and substitute the following:—

"47, (1) Unless exempted wholly or partially by Our Government a Panchayat may, with the previous sanction of Our Government and subject to such rules as may be framed in this behalf, levy any tax, rate, cess or any license or other fee for the discharge of duties under Sections 16 and 17.

Provided that it shall not be competent to the Panchayat to levy any tax, cess or rate on lands already assessed to public revenue.

(2) Nothing contained in sub-section (1) shall authorise a Panchayat to levy any tax, cess, rate or any license or other fee if the majority of the voters of the village in accordance with the rules to be framed in this behalf object to the levy of any such tax, cess, rate or any license or other fee".

This Clause as settled by the Select Committee makes it obligatory upon the Village Panchayat to levy a tax on lands if the Government do not exempt that Panchayat from doing it. Now the objects aimed at by my amendment are three. Firstly it should be discretionary with the Panchayat to impose any tax or not, whether it be on land or on any other property. Secondly, no tax on land ought to be levied, and thirdly if the majority of the voters in a particular village object to the imposition of any tax no tax should be imposed upon them. When a Panchayat is invested with the power of raising funds for administering its own affairs, why it should not also be given the discretion to impose any assessment and why it is made obligatory

LIBRARY ARCHIVES Kerala Legislative Assembly

upon it to impose a tax on land passes my comprehension. I have not come across a similar provision in any other Regulation. In the Municipal Regulation the provision is that, if the Municipality does not impose any tax which the Government consider necessary, Government are given the power to direct the Municipality to impose a tax. Under this Clause Government is given such power to exempt or not. If the Government omit to exercise that power it is the duty of the Municipality to impose a tax. It appears to me that in principle such a thing is very proper and there is no justification for not giving any Panchayat discretion whether it should impose tax on land or any other tax or cess. Then, coming to the power of taxation on land, it appears to me that the lands which are already assessed to public revenue cannot be burdened any further. I know something of the economic condition of the people and to me it appears very hard to make the holders of the land pay any tax. We have been burdened with various items of tax during the last three years. People have been taxed heavily and it is not possible for the landholders to bear any further taxation. Apart from that there has been a solemn pledge in the Settlement Proclamation of 1058 and it is the duty of the Government not to violate that sacred pledge. It is not justifiable on the part of the legislature to pass a law enabling the local body to violate that pledge. When Mr. Subba Aiyar introduced a similar provision in the Income Tax Bill, I raised my protest against it. Any legislation for enabling additional tax on land appears to be a breach of faith and I appeal to this House that this House ought not be a party to violating the pledge given in the Proclamation of 1058. There are also other difficulties. Lands are held under various tenures. It is not explained by the mover of the Bill whether the taxes are to be paid, by only the Pattadars, or whether they are to be paid by the jenmies in the case of kanom lands or proprietors of Edavakais in the case of Edavakai lands. Again if the majority of voters object to the imposition of any tax, the Panchayat ought not to be permitted to do so.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): May I know from Mr. Sankara Menon whether in that case it will be possible to raise any tax in the villages so far as his experience goes?

MR. C. SANKARA MENON (*Quilon*): Certainly I do think it is possible to raise tax either for primary education or for the improvement of agriculture or for any other purpose if the people are satisfied of the necessity. What I submit is that, if the villagers are satisfied that a certain tax is necessary and if they agree to it, it may be imposed on them. Otherwise never impose on them any tax against their will.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): May I know from Mr. Sankara Menon, whether if the payment of tax is once concluded by Royal Proclamation he would have the same rule extended to every other matter.

MR. C. SANKARA MENON (*Quilon*): What I say is that when a solemn pledge has been made it ought not to be violated.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. G. Paramesvaran Pillai.]

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): May I ask Mr. Sankara Menon how he proposes to raise the one-fourth from the villagers if the Government guarantee the remaining three-fourths?

MR. C. SANKARA MENON (*Quilon*): You may impose poll tax, or any other tax; but do not tax the villagers in respect of land.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): I am simply inviting his attention to the novel proposal contained in his sub-clause 2, which runs thus:—

(2) Nothing contained in sub-section (f) shall authorise a Panchayat to levy any tax, cess, rate or any license or other fee if the majority of the voters of the village in accordance with the rules to be framed in this behalf object to the levy of any such tax, cess, rate or any license or other fee."

I am inviting his attention to the fact that the House has laid down that at least one-fourth should be raised locally. I think it fair that something should be raised by the villagers if the Government ask them to do it. Let me know how he proposes to satisfy that statutory requirement if the Panchayat has to be managed.

MR. C. SANKARA MENON (*Quilon*): I do not think the people the village will be so unreasonable.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): We are laying down a piece of legislation and we should be very serious on the matter. We must talk as lawyers, discuss the matter and should not go without any definite decision.

MR. N. RAMAKRISHNA PILLAI (*Vaikam* cum *Ettumanur*): May I know from Mr. Sankara Menon whether he thinks that the amendment to sub-clause 2 of Clause 46 would in any way facilitate the imposition of assessment according to him?

MR. C. SANKARA MENON (*Quilon*): It appears to me that the rate-payers should be taken into confidence.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): May I know from Mr. Sankara Menon how he proposes to ascertain the wishes of the majority of the people in the village.

MR. C. SANKARA MENON (*Quilon*): We must frame rules for the purpose.

PRESIDENT: What about your amendment, Mr. Paramesvaran Pillai?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): My amendment is as follows:—

"Unless exempted wholly or partly by Our Government, a Panchayat may, with the previous sanction of Our Government and subject to the provisions of this Regulation or any rules framed thereunder, levy any tax, rate, cess or any license or other fee for the discharge of the duties under Section 16 to 18."

LIBRARY ARCHIVES Kerala Legislative Assembly

I bring this amendment for this reason because the Clause as it stands does not give any power in relation to taxation, cess or rates. I have practically copied the Section in the Municipal Regulation regarding the levy of taxation. On the other hand the Section reads as if it were obligatory upon the Panchayat to levy a tax as soon as Government directs them to do so. I am only seconding this portion of the amendment moved by Mr. Sankara Menon. I do not agree with the latter portion of his amendment.

PRESIDENT: Who seconds Mr. Sankara Menon?

MR. N. PADMANABHA PILLAI (*Karunagapalli*): I second the amendment as a whole moved by Mr. C. Sankara Menon?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I wish to speak upon the first portion of the amendment moved by Mr. Sankara Menon for this reason. It is practically asking the Village Panchayat to levy any tax or cess at the rates fixed by the Government. That is too much. On the other hand the provision in the Municipal Regulation affords ample facilities for objections being filed against the imposition of a tax for the consideration of the Government as well as local bodies. Facilities are given for the local body to escape from the assessment of enhanced taxation according to the Municipal Regulation. The object of my friend Mr. Sankara Menon will also be served in a better manner by making the rules on the basis of the Municipal Regulation with reference to the nature of the tax to be levied, because it would afford an opportunity for the voters or electors to prefer any objection with reference to the rate or nature of any tax that is considered by the Government and afterwards final decision may be passed. Thus we will not be ignoring the wishes of the electorate as well. We will be taking their objections too into consideration. So that, if Government are prepared to incorporate in this Regulation the same provisions relating to proper taxation as are given to the Municipal body subject to the rules to be framed on a similar basis, I suppose that will meet all necessities.

MR. A. GOVINDA MENON (*Alangad cum Parur*): Do you like to have a clause in the Bill as in the Municipal Regulation?

PRESIDENT: The amendment is something different.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): With reference to Mr. Paramesvaran Pillai's difficulty I may say that Section (6) (f) provides for regulating the assessment and collection of taxes, cesses, rates and fees, appeals against such assessment and collection, and the custody and proper administration of the Village Fund.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Regulating the assessment is entirely different from authorising the imposition of tax. Whether there should be a tax or not, what taxes are imposed, and all that, is beyond my comprehension. It does not say how it should be adopted. The method of assessment is not clear.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If my friend Mr. Paramesvaran Pillai wants that there should be a discretion

LIBRARY ARCHIVES Kerala Legislative Assembly

[President.]

as to whether any particular tax should be imposed or not, it is not open to the Village Panchayat to say that there should be a tax on land or not. After having committed ourselves to the position that not more than one-fourth of the funds should be provided by the Village Panchayat, I just want to know how it is possible to raise that amount. Mr. G. Paramesvaran Pillai stated that there might not be much to be collected in the shape of license fees or any other amount, namely, with reference to other forms of taxation which are mentioned in Clause (2). In a village it may not be possible to issue licenses or raise any other form of taxation. Land cess is certainly the sure form of taxation which is available and out of it one portion is collected. It may be one cash per acre and it may be necessary to raise it to one-fourth of the amount so that the discretion is vested in the Village Panchayat as to the amount of taxation that is necessary, *viz.*, name as to the rate at which it should be levied.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): As it is a Panchayat it shall levy a certain cess on land at such rate.—

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not know whether my friend wants that the rates should be at the discretion of the Panchayat or the taxation itself should be at the discretion of the Panchayat.

PRESIDENT: He is concerned more with the rates.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If so, I have no objection to make it clear.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): My question is that local bodies should be given greater freedom. What particular forms of taxation should be resorted to and on what principle, all these things should be decided by the local body or under the advise of the local body. At the request of the Government they should not tax. As it is, land shall be taxed. It may be possible for the local body to tap other sources of revenue and go on with their work.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The possibility of resorting to other source of revenue is rather remote and I say the question of taxing the land is necessary and the amount of tax to be levied and the rates may be left to the discretion of the Village Panchayat. As to whether it should be from other sources Mr. Paramesvaran Pillai admitted when speaking on the previous motion that it is not possible for the Village Panchayat to have recourse to other forms of taxation. That being the case how to raise the minimum one-fourth of the amount required for the carrying on of the Panchayat, I cannot see.

PRESIDENT: What he points out is that there may be instances in which it may be possible for the Village Panchayat to find funds without taxing the land. Therefore he thinks that it is enough to say that these are the items of taxes and these are the sources that can be

LIBRARY ARCHIVES Kerala Legislative Assembly

resorted to, just as in the Municipal Regulation there are the professional tax, house tax and so on. Then the Panchayat makes a recommendation and says that under this tax so much may be realised, so much under the other and so on. Then the Government hear the objection and Government have got the power to compel the Panchayat to levy a particular tax at a particular rate.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I take it that Mr. Paramesvaran Pillai has no objection to have the various forms of taxation mentioned in the Section. As to what particular form of taxation should be resorted to may be left to the discretion of the Village Panchayat.

PRESIDENT: I think that aspect of the matter should be considered. I do not think that we can arrive at a satisfactory decision this evening in regard to it. It seems to me that this aspect of the matter may be considered informally by the members. I think that we will have to sit up for a very long time if you are going to decide this now. What is your opinion?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I will take some time more.

PRESIDENT: We will now rise. To-morrow the non-official work will begin.

The Council adjourned at Five Ten of the clock to meet the next day.

S. PARAMESVARA AIYAR,
Secretary to the Legislative Council.

LIBRARY ARCHIVES Kerala Legislative Assembly